SENATE—*Monday, July 25, 1988*

The Senate met at 10 a.m., and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint.—Isaiah 40:31.

Eternal God, infinite in truth, justice, love and strength, as August recess nears and adjournment sine die approaches, the workload continues, pressure builds, minds and bodies grow weary.

Help the Senators know that the busier they are, the more they need a few minutes alone with God daily. Help them to understand that time with God, however brief, is never wasted or lost, but rather enhances the hours that remain and energizes them, mentally and physically.

Give each Senator the wisdom to take 5 minutes in the day just to wait on God without distraction, that they may mount up with wings as eagles, that they may run and not be weary, that they may walk and not faint.

We pray this in the name of Him who knew the "exquisite leisure of God"—who was never in a hurry—yet finished His work. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 25, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for a great and instructive prayer. I hope that we will follow the suggestions that he made in the prayer and that we profit greatly thereby physically, mentally, and spiritually.

BIRTHDAY WISHES FOR THE REPUBLICAN LEADER

Mr. BYRD. Mr. President, last Friday was the birthday of our distinguished Republican leader. I do not know whether he has reached the point yet that I have reached when I do not like to talk about birthdays very much, except someone else's birthday. I am sure he has not reached that point yet.

We all congratulate him and wish him many, many more birthdays of useful and productive service to our country and to his State. He is a good Senator and a good leader. I enjoy every day working with BOB DOLE.

Wouldn't this old world be better
If the folks we meet would say—
"I know something good about you."
And treat us just that way?

Wouldn't it be fine and dandy
If each handclasp, fond and true,
Carried with it this assurance—
"I know something good about you."

Wouldn't life be lots more happy
If the good that's in us all
Were the only thing about us
That folks bothered to recall?

Wouldn't life be lots more happy
If we praised the good we see?
For there's such a lot of goodness
In the worst of you and me.

Wouldn't it be nice to practice
That fine way of thinking, too?
You know something good about me.
I know something good about you.

We know something good about our friend and colleague and leader, BOB DOLE. Happy birthday. It is a little late, but the Democrats were having an event in Atlanta, else I would have said these words last Friday. I will break the rules of the Senate and say, BOB, happy birthday to you.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I will just take a minute of my time. I want to thank the distinguished majority leader for his kind remarks. I know he means every word of it. I appreciate it, and I appreciate the effort to move the schedule. I appreciate more our personal relationships that have grown and developed. I thank the majority leader very much.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is now recognized.

CONGRATULATIONS TO THE DEMOCRATS

Mr. DOLE. Mr. President, I also want to congratulate the Democrats. They had a good week last week. Hopefully, we will do as well in mid-August in New Orleans. I think the race is on, whatever happens. I know that in the interim period, between now and August 14, we have a lot of work to do.

ORDER OF BUSINESS

Mr. DOLE. As I understand, I think the majority leader does have the right to go to the remaining appropriations bills after consultation, and I will consult with Senator HATFIELD, plus I think there are a couple other time agreements—endangered species and nutrition.

So we are in pretty good shape. I understand the majority leader would like to get to the drought bill hopefully this week if we reach agreement. I think that can be done. We will start checking that on this side.

Mr. BYRD. Mr. President, will the distinguished leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Mr. President, I will outline the work for the next few days in this fashion. Generally speaking, I think it would go like this:

We hope to take up the endangered species legislation this morning, and work on that for a while. I hope it will not take too long to complete action on that bill. There are some problems with it, but I believe they can be worked out once we get the bill up.

Then at 2 o'clock today, unless by unanimous consent we wish to defer taking up the Labor-HHS appropria-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tions bill, perhaps because we may be making progress on the endangered species bill and would like to finish it or some such, at 2 o'clock we take up the labor-HHS appropriations bill.

I hope that by tomorrow afternoon, following the two conferences, we can take up the child nutrition legislation and do that. I hope that we can follow that at some very early point with the drought bill. I understand that the committee will submit its report today, and it should be back from the printers tomorrow. The 2-day rule would carry us over to Thursday. I hope that we can get unanimous consent to take up the drought bill perhaps sometime Wednesday, and in the meantime, we will be making progress on the Labor-HHS appropriations bill.

I would like to follow child nutrition and drought legislation with the Agriculture appropriations bill, and then take up State, Justice, Commerce appropriations. That would only leave, if things develop progressively, as I have indicated here in a tentative way, the Defense appropriations bill.

By midnight Wednesday next week, August 3, the time on the plant closing bill under the Constitution would have run its course, and by then, we should know what the President's decision will be on the plant closing bill. If he should decide to veto that bill, then the Senate would take that bill up immediately, as far as I can see now. That would be the 4th, Thursday of next week.

And then once action is completed on that veto override, one way or the other, in the event the President vetoes, and he may not—I have no way of prejudging that—I should then like to go to the trade bill.

I will be talking with Senator BENTSEN, who will manage that bill on the floor, so that we might, hopefully, expect to get to the trade bill the latter part of next week. So that we would have before the Republican Convention—and I should say parenthetically the Senate will not be in on the Friday before the convention as it was not in on the Friday before the Democratic Convention—14 days in which to do child nutrition, endangered species, drought legislation, Agriculture appropriations, Labor-HHS appropriations, State-Justice-Commerce appropriations, Defense appropriations, veto override, if there is a veto, of the plant closing bill, and the trade bill, all of which is a pretty full platter.

I thank the distinguished Republican leader for all the fine cooperation and support that he has given. We have been able to make good progress thus far, and I hope we can continue to make progress on the bills as I have outlined them during the next 3 weeks.

Mr. DOLE. I say to the majority leader, as there will be a trade bill—I am not certain when—I assume at that point, depending on Senator BENTSEN's schedule, if there is some agreement among the leadership and members of that committee to try to fend off any amendments, we could probably finish that bill fairly soon. I understand the House and the Senate leaders on that particular bill sort of want to keep the bill as it was prior to the veto with the exception of the Alaska provision and then plant closing which we have done on a separate track.

Mr. BYRD. Yes.

Mr. DOLE. It is my understanding everything else they would like to pretty much keep as is without additional amendments, and I would be happy to visit with the majority leader about that at the appropriate time.

Mr. BYRD. Yes. I thank the distinguished Senator, and I look forward to that visit. May I say before I yield—the Republican leader has the floor—we will not be in late this evening. I would say 6 o'clock, 6:30, thereabouts. I thank the distinguished Senator for yielding.

Mr. DOLE. I thank the Senator.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed 20 minutes with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

NO TIME TO WEAKEN OUR ANTIBRIBERY LAWS

Mr. PROXMIRE. Mr. President, the majority and minority leaders discussed the possibility of Senate action on the trade bill before the Republican Convention, and this Senator has a heavy heart when it comes to that bill.

Mr. President, do we need to strengthen the enforcement of our principle anti-international bribery law, the Foreign Corrupt Practices Act, or should Congress make enforcement of the law virtually impossible, as the trade bill, which comes back before the Senate in a few days, would do? A recent case illustrates dramatically why we should strengthen our enforcement of the Foreign Corrupt Practices Act. The case also tells us why we should not pass the trade bill without removing the language that would make successful prosecution of bribery a virtual impossibility.

In June a jury in Kentucky awarded two former officials of the Ashland Oil Co. $69.5 million as compensation for being fired by the company for refusing to take part in conspiracies, perjury and other crimes connected with Ashland Oil's bribery of officials in Oman. The dismissed Ashland officials had charged that Ashland paid tens of millions of dollars in bribes to foreign officials to get scarce crude oil and then tried to cover up the illegal conduct. The jury found that Ashland "with corrupt intent to bribe" had made payments to three figures of said foreign officials under the Foreign Corrupt Practices Act. The jury decided that Ashland with the same corrupt intent had made payments to a fourth official—this one from Abu Dhabi—"knowing or having reason to know" that all or a portion of the $17 million "would be used to bribe a government official of Abu Dhabi."

Mr. President, note that "having reason to know." This is the clause in the Foreign Corrupt Practices Act on which the jury based its decision against Ashland Oil. And this is the precise phrase that the trade bill language would delete. Instead, it would leave only "knowing" in the law. This means that the prosecution would have to prove that Ashland officials knew that bribes were being paid by their agent. If this language now in the trade bill had been the law the Ashland Oil bribes were before the jury, there would have been little or no chance of a jury decision against Ashland. How does a prosecutor establish knowledge? How does he take a juror into the mind of a corporation official who initiated and provided the money for the bribe? He cannot.

Now, Mr. President, it is true that the Foreign Corrupt Practices Act in the Ashland Oil case did not bring a successful criminal prosecution of the Ashland Oil executives. These executives were found guilty of participating in "a pattern of racketeering activity" principally through multiple violations of the FCPA antibribery section in a civil case. Sure, the Ashland company was forced to pay millions of dollars in compensation to former vice presidents for wrongful dismissal because those former officials had refused to take part in conspiracies, perjury and other crimes. But how serious a penalty was this? Would it really deter other corporations with hundreds of millions of dollars at stake from paying bribes that netted tens of millions of dollars in profits for the corporation even after the multimillion dollar awards paid? The grim fact, Mr. President, is that with these huge amounts at stake, unless there is a real prospect of a jail sentence corporation executives as they did so often before the passage of the Foreign Corrupt Practices Act calculate the bribe as a good and sure investment for landing a contract worth many millions of dollars of profit.

So if the Foreign Corrupt Practices Act is such a terrific law, why didn't it deter the Ashland Oil corporation? And why didn't the executives of the

Ashland Oil corporation who were found guilty of violating the law by a jury suffer criminal penalties? The answer is that the SEC, which prosecuted the case, decided for injunctive relief in this case and won it. But there has been no criminal prosecution. This Senator has written to the Justice Department to find out why not. This case establishes the fact that the current Foreign Corrupt Practices Act is not too tough. Can anyone seriously contend that the law is so tough that it needs to be enfeebled, as language in the trade bill would do, by dropping the absolutely critical "reason to know" language? That language in the present law provides an objective standard that permits prosecution of a corporate briber. The trade bill that will be before the Senate shortly strikes out the "reason to know" language and requires the prosecution to prove what is in the responsible executive's mind. So it guts the law because such proof is virtually impossible.

Mr. President, I ask unanimous consent that an article by Morton Mintz in the July 10 Washington Post, headlined "SEC Draws Fire for Handling of Bribery Charges Against Ashland Oil After Private Lawsuits Succeed," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 10, 1988]

SEC DRAWS FIRE FOR HANDLING OF BRIBERY CHARGES AGAINST ASHLAND OIL AFTER PRIVATE LAWSUITS SUCCEED

(By Morton Mintz)

Lawyers for two former executives who won a $69.5 million award from Ashland Oil Co. contend that their victory shows the Securities and Exchange Commission pulled its punches in handling charges of overseas bribery and other illegal conduct by Ashland.

The two former vice presidents had said in wrongful-dismissal lawsuits and in SEC testimony that Ashland paid tens of millions of dollars in bribes to foreign officials to get scarce crude oil and then tried to cover up the illegal conduct. They said they lost their jobs after refusing to participate in conspiracies; perjury and other crimes.

Last month, a U.S. District Court jury in Covington, Ky., awarded Bill E. McKay $44.6 million and Harry D. Williams $24.9 million after a 35-day trial. The jury said the liability should be shared by Ashland; its former chairman and chief executive, Orin E. Atkins; John R. Hall, who succeeded Atkins in 1981, and Richard W. Spears, senior vice president for human resources and law.

The SEC filed a much narrower civil lawsuit in July 1986 charging that Ashland and Atkins had bribed an official of Oman to get oil from the sultanate. The suit was filed in tandem with a consent decree, a final court judgment in which Ashland and Atkins neither admitted nor denied past violations while agreeing to face criminal penalties for future ones.

The jury and the SEC each had essentially the same evidence of possible violations of the Foreign Corrupt Practices Act (FCPA) of 1977. The gap between the jury's verdict and the SEC action shows that the SEC dealt with the matter too lightly, according to John R. McCall and Kenneth M. Robinson, the lawyers for McKay and Williams.

"I can understand how counsel for McKay and Williams are proud of their achievement, and they certainly have the right to crow about it," said SEC enforcement chief Gary G. Lynch. "But any criticism of the commission's investigation, or of the results that we achieved, is simply unwarranted."

Punitive damages accounted for only $3 million of the awards to McKay and Williams. Compensatory damages were tripled—to $66.5 million—for conspiring to violate, and for violating, the Racketeer Influenced and Corrupt Organizations Act. RICO makes it unlawful for any person associated with an enterprise affecting commerce to lead or to join in "conduct of [the] enterprise's affairs through a pattern of racketeering activity."

The jury found that the three individual defendants had all conducted or participated in "a pattern of racketeering activity" principally through multiple violations of the FCPA antibribery section and of a law prohibiting travel for the purpose of violating the section.

The defendants asked Judge William O. Bertelsman to oveturn the verdict or order a new trial, contending in part that he allowed improper evidence to be introduced and improperly instructed the jury. If he denied both motions, they said they will appeal to the Sixth U.S. Circuit Court of Appeals.

In an unusual practice permitted in the Sixth Circuit, Judge Bertelsman created three advisory panels before the trial began to prod the parties to settle. The panels, made up of a total of 14 jurors who held five-day summary trials, returned large—but nonbinding—verdicts for McKay and Williams.

The first panel "awarded" trebled RICO damages of $9 million to McKay and $6 million to Williams, plus punitive damages of $2 million each. The second panel gave each man $9 million in trebled RICO damages but no punitive damages.

The third panel was told to assume the judge has directed a verdict for the plaintiffs and decide the damages. Although the jurors said they might not have held the defendants liable, their award totaled $77 million, $7.5 million higher than the combined verdict from the real jury.

The SEC's 1986 lawsuit, which followed months of negotiations with Ashland's law firm, Cravath, Swaine & Moore, named only one person paid by the oil company, James T.W. (Tim) Landon of Oman, as a foreign government oficial under the FCPA's antibribery provisions. The complaint also alleged only one bribe, described by Ashland as a $25 million investment in a Landon-controlled chromium mine in Rhodesia.

But the jury found that Ashland, "with corrupt intent to bribe," had made payments to three figures it said were foreign officials under the FCPA: Landon and Yehia Omar of Oman, and Hassan Y. Yassin of Saudi Arabia (who also has operated a consulting firm in McLean).

With the same corrupt intent, the jury said, Ashland had made payments to a fourth recipient, Sadiq Attia, "knowing or having reason to know that" all or a portion of the money—$17 million—"would be used to bribe a government official of Abu Dhabi."

Last December, SEC Chairman David S. Ruder told Senate Banking Committee Chairman William Proxmire (D-Wis.) that the Division of Enforcement "concluded that the evidence was . . . insufficient to support further charges of violations" of the FCPA.

In an interview after the jury verdict, Lynch said "there was not sufficient evidence that we felt comfortable we could prevail" if charges were brought based on Ashland payments to Omar. "Even before we sat down to negotiate, we had decided privately to exclude Omar, Abu Dhabi, and Saudi Arabia from the consent decree. . . .

"It was clear to us that the Landon transaction was the strongest, because we believed we could establish that Landon was a government official at the time the chrome transaction occurred," Lynch said.

He called a multiple-count complaint unnecessary. "We were suing for injunctive relief," and "we could get it with Landon," he said. "There was no need to push and take on a litigation risk in a case that was much less certain." He extended this argument to the omission of the Abu Dhabi and Saudi Arabia cases.

But Robinson disagreed. "The finest judicial scrutiny our American judicial system can provide has now determined that the earlier government efforts were incomplete," McCall said. It's "ridiculous" for the SEC to claim the evidence was insufficient to convince a jury that bribery far beyond that which it alleged hadn't occurred, he said.

Lynch also defended the SEC's decision not to ask a federal court to find Ashland and Atkins had violated a 1975 consent decree and to hold them in criminal contempt.

"We did have a concern about meeting the higher burden of proof in order to prove criminal contempt," Lynch said. (In a criminal case, guilt must be proved beyond a reasonable doubt; in a civil case, all that's needed is a preponderance of the evidence—meaning it's more likely than not that a defendant did what he's accused of doing.)

One difficulty in going the criminal route was that "the major thrust" of the 1975 decrees involved unlawful political contributions, and "these were foreign bribes," Lynch said.

But the lawyers for McKay and Williams dismissed this explanation. They pointed out that the 1975 consent decrees prohibited false or fictitious bookkeeping entries, and said the $25 million Oman item that the SEC called a bribe, as well as the Abu Dhabi and Saudi Arabia payments, all were recorded by Ashland as ordinary outlays.

"It was like shooting ducks in a barrel," Robinson said. "There was no answer that any Ashland official could give on the stand to explain the fraud that was in the documents that they wrote. And how the SEC could miss that is beyond description. . . .

"The SEC should have seen it. These were indictable offenses . . . I don't see the evidence that the SEC even slapped Ashland's wrist. They just closed the book by executing another consent decree—a promise to pay, which is all that it is."

Arthur F. Mathews, who was an SEC deputy enforcement chief in 1969, said in an interview that "in the horse-trading for not litigating," Cravath, Swaine "got the staff to strike Yehia Omar . . . If I had to guess, they did not include Yehia Omar in their action because they thought it was a toss-up whether you could prove it, and they gave it up in the bargain."

McCall said the SEC staff may well have done all it could have, particularly in light of the Reagan administration's apparent reluctance to enforce the FCPA's antibribery provisions.

The SEC commissioners, for example, voted 3 to 2 to reject the division's initial recommendation for a lawsuit that named only Landon as the recipient of a bribe. Only after the division reargued its case did the commission reverse itself, allowing Lynch to file the lawsuit.

Lynch said the SEC disregarded a report by an outside counsel who concluded that the Oman transactions had not violated the FCPA or the 1975 consent decree. Williams and McKay had challenged the independence of the outsider, Pittsburgh attorney Charles J. Queenan. Queenan is a friend of Cravath, Swaine presiding partner and Ashland director Samuel C. Butler, who submitted the report to the SEC as the work of an independent counsel.

"We did not accept the conclusion that it was an 'independent counsel' report," Lynch said. The SEC staff "did our own very thorough investigation of the matter," he said. "It is clear that if we had accepted the Queenan report's findings, we would not have filed an action.

Butler did not respond to a reporter's request for comment.

The Kentucky jury also concluded that McKay was ousted in part because he refused to violate federal perjury statutes in statements to the IRS and the SEC.

In 1982, the IRS had sent Ashland officials a five-question form inquiring about possible bribes, kickbacks or other illegal payments. Under penalty of perjury, Hall and Atkins—but not McKay—omitted mention of the $17 million Abu Dhabi payment. The IRS apparently has not investigated the discrepancy, however.

Williams, who worked in Washington for Ashland, said: "The SEC has known for several years of my allegation that McKay and I were fired for providing information to the SEC enforcement staff as part of its investigation. This was specifically confirmed by the jury. Yet the SEC has yet to take any steps against Ashland to protect its own witnesses, even though this would appear to be an obstruction of justice and a violation of the Federal Victim and Witness Protection Act."

Williams' remarks were made after the Lynch interview. The commission did not respond to a request for comment.

Sen. Proxmire, who monitors FCPA enforcement, also has raised questions about the Justice Department's role in the Ashland case. The department had full access to the SEC's files from the start of the SEC staff investigation in May 1983.

Last October, after a Washington Post series on Ashland's payments to overseas consultants, Proxmire asked the department if it had investigated the matter and if "it has concluded that violations of the FCPA have taken place."

If the conclusion was that there'd been no violations, "I would like an explanation of the rationale underlying such a judgment," Proxmire said. "If the department has not investigated these allegations, I request that you do so and let me know the results."

Assistant Attorney General John R. Bolton said on Jan. 20 that he would respond when he received a report from the fraud section of the Criminal Division.

On June 20, Proxmire, having heard nothing more for six months, sent Attorney General Edwin Meese III a news story on the jury verdict in Kentucky and asked "whether the Department of Justice will not initiate a criminal action . . ." If not, Proxmire said he wanted to know why. A department spokesman said a response is being prepared.

REPORT OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. PROXMIRE. Mr. President, under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 302(b) of the act requires the committees to allocate such spending authority among either their subcommittees or programs over which they have jurisdiction. This section also requires the committees to divide their allocations into amounts that are controllable and amounts that are mandatory under existing law. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made.

The allocations received by the Committee on Banking, Housing, and Urban Affairs from the managers of the conference were for direct spending authority that was assumed for Federal programs and activities over which this committee has original and complete jurisdiction.

The Committee on Banking, Housing, and Urban Affairs received the following allocations for fiscal year 1989 related to programs under its jurisdiction:

Fiscal Year 1989:

Direct spending authority:	*Millions*
Budget authority	$8,504
Outlays	6,279

The committee has made its subcommittee allocation as shown in the following table.

The amount allocated is equal to the allocations made to this committee in House Concurrent Resolution 93, 100th Congress.

Fiscal Year 1989:	*Millions*
Banking, Housing, and Urban Affairs:	
Budget authority	$3,535
Outlays	3,359
Housing and Urban Affairs Subcommittee:	
Budget authority	4,969
Outlays	3,341
International Finance and Monetary Policy Subcommittee:	
Budget authority	0
Outlays	−421

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL POW/MIA DAY PROCLAIMED BY GOVERNOR MARTIN OF NORTH CAROLINA

Mr. HELMS. Mr. President, today I dropped a note to North Carolina's Gov. Jim Martin, thanking him for having proclaimed September 16 as "National P.O.W./M.I.A. Recognition Day" in North Carolina.

In a moment I shall ask unanimous consent that the text of Governor Martin's proclamation be printed in the RECORD. First, however, a brief comment of my own.

Mr. President, throughout my nearly 16 years in the Senate, and for years before I came to the Senate, I have shared in the agony of families of American fighting men who were captured and held prisoner by the Communist Government of Vietnam. I cannot begin to count the number of meetings I have attended, or the efforts I have made, to persuade our own government to do far more to gain freedom for the captured men still alive, and full information about those who lost their lives.

The uncertainty has indeed been agonizing—and that uncertainty continues to this day. True enough, the Government of Vietnam is beginning to release bits and pieces of information. A few bodies have been returned. But not nearly enough has been done.

Governor Martin's proclamation correctly assesses the situation, and properly calls on our citizens to recognize the importance of pushing for a resolution of all doubt and uncertainty regarding the gallant Americans who went to Vietnam to fight a war they were not allowed to win.

Mr. President, I ask unanimous consent that the text of the proclamation issued by Gov. G. Martin be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

NATIONAL POW/MIA RECOGNITION DAY 1988

By the Governor of the State of North Carolina

A PROCLAMATION

We take solemn inspiration and resolve from the sacrifices of brave Americans who have endured captivity for their allegiance to our beloved land and ideals. We owe a great deal of gratitude to these men and women who defended our nation and who are now prisoners of war or missing in action in North or South Vietnam.

The fortitude of the families of missing or imprisoned Americans is remarkable. Our state and nation should not rest until our efforts to secure the release of any American personnel held against their will or the full accounting of those still missing are successful. This must be done to relieve the suffering of their families.

North Carolina and the United States will never forget the heroism of our men and women who served in America's wars. Thus, the Prisoner of War/Missing in Action issue will remain a high priority for our citizens until it is resolved to the satisfaction of the American people and its government.

Now therefore, I, James G. Martin, Governor of the State of North Carolina, do hereby proclaim September 16, 1988 as "National P.O.W./M.I.A. Recognition Day" in North Carolina and urge our citizens to commend its observance.

FREE ENTERPRISE: WHAT IT MEANS TO YOUNG PEOPLE TODAY

Mr. HELMS. Mr. President, about 20 years ago there lived in Raleigh, NC, a courtly gentleman who was the epitome of what we mean when we refer to love of God and country. Mr. A.J. Fletcher was then in his eighties, but still actively directing the operation of a number of successful business enterprises. He was one of the most remarkable men I have ever known.

In the configuration of today's corporations, it is not always easy to determine which of the corporate officers is "the boss." There was no such problem at Capitol Broadcasting Co. A.J. Fletcher was the boss. Yet he presided over that company and several others with unfailing civility and compassion for the hundreds of people who worked with him. He was decisive; he was firm—but he was always fair.

Mr. President, A.J. Fletcher died as he approached his midnineties. He was active almost to the end. He and I talked regularly on the telephone, and he never concluded a conversation without imploring me to do everything I could to preserve and protect the free enterprise system. He followed the deliberations of Congress closely. He knew what was going on. And he often expressed apprehension that politicians were veering far off the course set by our Founding Fathers.

Mr. Fletcher was, of course, absolutely correct. He contended, as he once put it, that "Too many people today are demanding that government do things that government simply cannot do, and was never intended to do." He worried about Federal deficits and the national debt. He also worried that young people were mistakenly being led to believe that socialism is an acceptable alternative to the free enterprise system. And that, he contended, would be the beginning of the end for the freedoms of the American people.

I said earlier, Mr. President, that A.J. Fletcher was a remarkable man—and certainly he was. He was born into poverty in the mountains of western North Carolina. His father was a circuit-riding Baptist preacher whose income was so small that it did not begin to afford more than a minimal standard of living for his family. A.J. Fletcher and his brothers and sisters learned hard work while they were yet children. They learned also about dedication and honesty, and how to save. Every one of them became productive and successful adults.

A.J. Fletcher never finished college, but he earned a law degree by attending night classes in Raleigh, conducted by Judge Gulley. Mr. Fetcher became a successful, respected lawyer. He learned how to invest his earnings, which were small at the beginning. To him, investing in the free enterprise system was the opening sentence of the story of America's greatness.

Mr. President, at the time of his death, Mr. Fletcher was worth millions. During this career, he devoted enormous sums of money to uplifting the vision and hope for young people. He founded an opera company, for example, because he wanted to provide young people with an opportunity to understand and appreciate the great music of the ages that seemed to be fading away in the consciousness of so many Americans.

Mr. Fletcher's opera company, now known as the National Opera Company, not only encouraged countless young men and women to develop their talents; many of them went on to sing professionally in operas in Europe as well as the United States. But the National Opera Company, once known as the Grass Roots Opera company, literally took opera to the grassroots.

Nearly 2 million schoolchildren, mostly in the small towns of North Carolina and other States of the region, heard opera for the first time when Mr. Fletcher's opera company performed in small towns and cities.

The National Opera Company never made a profit. It was never intended that it would. It was A.J. Fletcher's dream that the company would train and inspire young people and add a dimension to their perspective which probably would have been denied them otherwise. It is fair to say that A.J. Fletcher gladly financed the opera company out of his own pocket.

I began, Mr. President, by referring to Mr. Fletcher when he was in his eighties—some 20-off years ago. I did so because it was at that time that I witnessed Mr. Fletcher's decision to inaugurate another project to inspire and encourage young people.

He was concerned that almost no emphasis on the meaning of America's free enterprise system was then being taught in the schools of North Carolina. He groped for a way to cause high school students to give thought to the genius of America, as de Toqueville put it. To A.J. Fletcher, that genius—that miracle—was faith in God and the free enterprise system.

He wanted high school students to think about it, talk about it, write about it. So he established the A.J. Fletcher Foundation, which would have as one of its purposes the awarding of annual scholarships to scores of young people. So there began the citizenship awards which for 20 years have been presented to high school students in countless communities around North Carolina.

To earn the citizenship awards, students must submit essays on the free enterprise system and what it means to them in terms of their futures. I have had the privilege of reading a number of the award-winning essays of 1988. All are excellent; each fulfills the purpose that Mr. A.J. Fletcher had in mind two decades ago when he established the annual Citizenship Award as a part of the A.J. Fletcher Foundation.

As an example of the quality of the essays, Mr. President, I shall in a moment submit the thought of one of the many 1988 award winners, a young lady named Kristie Liner, a student at Alamance Christian School, Graham, NC. The essay is brief—there is no requirement that any essay be lengthy—but it clearly discloses that Kristie Liner understands what the free enterprise system means to her and all other young people. And that is precisely what Mr. Fletcher had in mind two decades ago.

I congratulate Jim Goodmon, A.J. Fletcher's grandson, who today is chief executive officer of Capitol Broadcasting Co., in Raleigh, and president of the A.J. Fletcher Foundation, for fulfilling his grandfather's wishes. I also congratulate David Witherspoon, vice president of the foundation. David manages the operations and functions of the foundation.

Mr. President, I ask unanimous consent that Kristie Liner's award winning essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE HOME OF THE FREE

(By Kristie Liner)

A four-word phrase which is often used to describe America is "the land of opportunity." It is called this in a most appropriate way. Our nation, founded primarily on the basis of freedom, enables all who are willing to exert some amount of energy and initiative, to acquire and claim something as their own.

As teenagers, we can choose the direction in which we want to live our lives; then, we can work to reach the goal that we have set for ourselves. However, we tend to forget that even this liberty to choose is a benefit of our freedom. In communist countries, citizens are not free to work as they choose, or where they choose. Instead, they are commanded to work only the jobs that their government assigns and to report their work

to those "above" them. This method of rule deprives a person of striving for a goal and robs him of his own self-respect, while it also creates little cause for pride in one's work.

Although God has created every man equal, he has also created every man different. Instead of imitating others and envying their work, we need to develop our talents and work with what we have. Our free enterprise system allows us to do just that. From the poorest to the richest, everyone has an opportunity to make a living. We need only to take advantage of the opportunities our free nation offers.

Above all else, we must keep our country free. To do so, we cannot lose sight of the past. That is where we fought for our nation that was founded on godly principles. It is a great shame when a nation forgets her past and that it is "in God we trust."

FIRST CITIZENS BANK: NO. 1 IN AMERICA

Mr. HELMS. Mr. President, living as we are at a time when it is fashionable to emphasize the negative while scarcely noting the good, constructive things going on around us, it is not surprising that many Americans seldom give thought to their blessings.

Especially is this true regarding the accomplishments in and by the private sector which, for all of its faults, has provided the most abundance and the highest standard of living in the history of mankind. In all candor, the major news media have scant interest in the private sector—except when an occasional irresponsible participant in the free enterprise system abuses his trust and is caught in acts of dishonesty. Then it is made to appear that such acts are typical, when in fact they are not. Small wonder that so much political hay is made by those who favor government control, if not ownership, of every vestige of this capitalistic system. Little is said to remind the American people that the vast majority of citizens are honest and prudent and responsible.

Mr. President, these thoughts came to mind when I learned the other day that North Carolina has yet another No. 1 achievement which has gone virtually unnoticed.

One of the largest banks in our State—First Citizens Bank & Trust Co., of Raleigh—has ranked for 2 years straight as the safest and soundest among the 150 largest banks in the country.

Just suppose, Mr. President, that First Citizens Bank had been rated as the most unsound and most unsafe in the country. Would that have been front-page news? You bet. There would have been editorials blistering the U.S. banking system and the bankers who operate it. There would have been calls for Federal intervention.

But even in my own State, insofar as I have been able to determine, only some newspapers in smaller cities and towns took note of the First Citizens achievement—and then with my only relatively brief items tucked away on the inside pages.

Mr. President, First Citizens Bank is a success story that began decades ago when a country banker named R.P. Holding decided to establish a bank which would concentrate on providing prudent banking services to the farmers and small businesses of North Carolina. Mr. Holding died in the late 1950's, but he left behind not only a strong, sound bank; he also had trained his three sons in the fundamental principles of running that bank.

Two of the sons remain in the top management of First Citizens today. The third, Robert P. Holding, Jr., died several years ago. Lewis R. Holding today is chairman of the board and chief executive officer; Frank B. Holding is vice chairman.

The surviving Holding brothers—and Bob Holding, Jr., before his death—have guided First Citizens to a remarkable position of greatness in the American financial and economic picture. First Citizens Bank is now a $3 billion institution with 323 banking offices across North Carolina.

Every 3 months, a San Francisco-based bank analysis firm, Bank Valuation, identifies the 150 safest and soundest banks among the larger institutions in the Nation. For eight straight quarters, First Citizens Bank of North Carolina has been in first place.

The quarterly study by Bank Valuation offers a detailed profile of American's largest banks, ranking each of them in terms of quality and degree of credit-risk exposure. Five measures of each bank's performance are analyzed every 3 months, and assigned weighted values: First, liquidity; second, credit risk; third, profitabilty; fourth, interest rate match; and fifth, capital adequacy.

Mr. President, in early March of this year, prior to First Citizens Bank's having been rated No. 1 in soundness and safety for the eighth straight quarter, the chairman of the board and CEO of First Citizens issues a report to shareholders. In a moment, I shall ask unanimous consent that excerpts from Mr. Lewis R. Holding's report be printed in the RECORD.

In that annual report, Mr. Holding cautioned the bank's shareholders that—

> We are proceeding into 1988 with extreme caution. The stock market crash in October sent a clear signal that there are serious problems with our economy that Congress does not seem to recognize. The budget and trade deficits have reached abhorrent levels. We, as a nation, continue to live beyond our means. . . Our elected leaders do not appear to have the fortitude to deal with these issues.

Mr. President, Senators may wish to read Mr. Holding's entire report which, as I say, I shall insert in the RECORD momentarily. But before I do that, let me quote exerpts from his concluding paragraph in which he said—

> It appears that First Citizens Bank has been doing that right things at the right times. . . Our continued goal is to operate our business on a sound and profitable basis and provide the quality service necessary to retain and attract quality customers.

That just about says it all. It explains why this substantial banking institution, which began decades ago as a small country bank, today ranks No. 1 in America in soundness and safety.

First Citizens Bank brings pride to my State, and I am personally very proud of Lewis and Frank Holding, and the thousands of their competent, dedicated associates. I extend my congratulations to all of them.

Mr. President, I ask unanimous consent that the text of excerpts from Mr. Lewis R. Holding's report to shareholders be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT

DEAR SHAREHOLDER: I am pleased to report to you the results of a very eventful and profitable year for First Citizens BancShares.

I am pleased to announce increased earnings for 1987. The corporation's net income for the year totaled $25.1 million, compared to $23.3 million in 1986, an increase of 7.9 percent. Per share income for 1987 totaled $2.57, compared to $2.40 in 1986, an increase of 7.1 percent. Improved earnings for the year are the result of a lower effective income tax rate, increased loan levels and increases of trust and service charge fee income.

Net income for the fourth quarter totaled $5.7 million, compared to $6.3 million earned during the fourth quarter of 1986, an 8.7 percent decrease. Per share income for the quarter ending Dec. 31, 1987, was 58 cents, compared to 64 cents earned per share in the corresponding period of 1986, a decrease of 9.4 percent. The decline in fourth quarter earnings was due to narrower interest rate spreads and increased operating expenses.

Total consolidated assets of First Citizens BancShares, Inc. and subsidiary were $3.1 billion, compared to $3.0 billion at year-end 1986, a 2.8 percent increase. Total deposits of First Citizens Bank as of Dec. 31, 1987, were $2.7 billion, compared to $2.6 billion at year-end 1986, reflecting an increase of 2.3 percent.

Assets managed by the Trust Department surpassed the $1 billion milestone in the third quarter. This was achieved through efforts of the Bank's trust marketing program, which has enabled trust assets to double in the last three years.

Your Board authorized the corporation to purchase shares of its outstanding common stock during the fourth quarter. First Citizens BancShares has the authority to purchase on the open market or in private transactions up to 300,000 shares of its outstanding Class A common stock and up to 100,000 shares of its outstanding Class B common stock. We believe that these stock purchases are an attractive investment for the holding company.

We have also agreed to purchase six offices of Barclays Bank of North Carolina. The offices, located in Ahoskie, Bayboro, Clinton, Rockingham, Tarbor and Windsor, have deposits of approximately $46 million. Finalization of the transaction is contingent upon approval of the applicable regulatory agencies. The acquisition will allow First Citizens to enter four new counties: Bertie, Edgecombe, Hertford and Richmond. Management is committed to making the customer transition from Barclays to First Citizens as simple and convenient as possible. The transaction should be finalized this summer.

We are proceeding into 1988 with extreme caution. The stock market crash in October sent a clear signal that there are serious problems with our economy that Congress does not seem to recognize. The budget and trade deficits have reached abhorrent levels. We, as a nation, continue to live beyond our means. While real per capita disposable income has risen approximately 13.6 percent over the last five years, real personal consumption has risen 20.1 percent. Americans saved at a rate estimated at only 3.8 percent in 1987, the lowest savings rate in forty years. Our elected leaders do not appear to have the fortitude to deal with these issues.

We believe that economic growth will continue at a sluggish pace, with interest rates staying at or slightly above current levels. There is expected to be some increase in the inflation rate.

First Citizens' earnings potential is expected to follow the fourth quarter trend, with 1988 income experiencing the same pressures that affected our margins last quarter.

It is our opinion that we need to continue cautiously into 1988 and future years. We are committed to managing our company by maintaining only the highest asset quality and high levels of liquidity. We would rather sacrifice earnings than jeopardize the integrity of our balance sheet or the soundness of the Bank.

The challenges that we face are many. In sections that follow, we outline how First Citizens is meeting the challenges facing our industry, our state and our company.

It appears that First Citizens Bank has been doing the right things at the right times. Our 21-month position as the soundest of the 150 largest banks in the United States is testimony that our strategies work. Our continued goal is to operate our business on a sound and profitable basis and provide the quality service necessary to retain and attract quality customers.

Sincerely,

LEWIS R. HOLDING,
Chairman of the Board.

NATIONAL HOSIERY WEEK TO BE OBSERVED AUGUST 15-20

Mr. HELMS. Mr. President, the week of August 15-20 marks the 17th annual observance of National Hosiery Week. It is with great pleasure that I take this opportunity to recognize an industry which has contributed so much to the free enterprise system of our Nation as well as to the economy of North Carolina.

Mr. President, the textile industry has been forced to deal with an unfair burden in past years due to the vast number of imports. Although this trend continues to plague our system, I am pleased that in the past year we have seen the first import decrease since 1981. Imports in 1987 represented just 3.7 percent of the domestic hosiery market. This is a significant first step in halting the giant inroads which imports have made in the U.S. hosiery market.

There has been more good fortune for the hosiery industry during the past year in the area of foreign trade. Export figures for 1987 leaped 43 percent over 1986 exports to 5,636,400 dozen pairs. This helped make 1987 the third consecutive year of increasing production for the industry.

It is vital that we continue to support the textile and apparel industry which employs so large a share of the American people. The hosiery industry represents a significant portion of the textile and apparel complex. It alone employs more than 70,000 in 438 plants around the Nation and continues to grow. The large size of the hosiery industry makes it a major contributor to our Nation's economy.

NAHM members make and distribute 85 percent of U.S. hosiery, contributing more than $6 billion to the U.S. economy each year. Yet, Mr. President, it is in the many smaller communities where the hosiery industry makes its most valuable contribution. In many communities around the country, hosiery companies constitute a large part of the local economy. In many cases, a hosiery company will serve as the major employer in the area, providing good, stable jobs for its employees.

Mr. President, the American textile industry in general, and the hosiery industry especially, has made great efforts to improve productivity in its mills and to sharpen the quality of its product. This effort to make the hosiery industry more competitive has resulted in significant technological and design improvements in the manufacture of hosiery. At the same time, the industry has maintained its high technical and safety standards. The increase in production in 1987 to 319,911,000 dozen pairs is an all-time high for the hosiery industry.

Mr. President, National Hosiery Week is of special importance to me because North Carolina is the leading textile State in the Nation. North Carolina takes pride in the leadership of the hosiery industry and the fine quality of life that it has provided for so many people.

On behalf of my fellow North Carolinians, I extend my sincere thanks and congratulations to the hosiery industry and to its many thousands of employees for the outstanding job they do and for the contribution they make to our State and Nation.

THE DEMILITARIZATION OF THE REPUBLIC OF CYPRUS: A CALL TO ACTION

Mr. PRESSLER. Mr. President, 14 years ago last week, Turkey conducted a brutal invasion and occupation of the sovereign nation of Cyprus. Today, despite efforts by both the United Nations and our country to encourage a resolution of this dispute, Turkish troops remain illegally in Cyprus, artificially dividing the Cypriot people and their homeland.

Recent developments indicate that the time has come for the withdrawal of Turkish forces from Cyprus. This year's series of meetings between Prime Minister Papandreou of Greece and Prime Minister Ozal of Turkey have been a first step toward the normalization of relations between those two countries. However, both leaders recognize that their goals in this regard cannot be reached until the Cyprus matter is resolved satisfactorily. Such a resolution necessarily includes the removal of all Turkish troops from Cyprus. It is therefore in Turkey's interests to explore a mechanism for removing those forces.

Clearly the best opportunity for such a withdrawal is the demilitarization program now being pursued by newly elected Cyprus President George Vassiliou. Under President Vassiliou's plan, Turkey would withdraw its 35,000 occupation forces and 65,000 illegal Turkish settlers from Cyprus. In an unprecedented action, the Republic of Cyprus would then dismantle its own defense systems and dissolve its national guard. Also withdrawn would be all Greek and Turkish contingents in Cyprus under the 1960 Treaty of Alliance. When the withdrawal of these troops is complete, the only forces remaining on Cyprus would be an international peace force under the auspices of the United Nations, and a small joint Greek-Turkish Cypriot police force, also under U.N. supervision. These steps and effective international guarantees would effectively protect the Republic of Cyprus from future threats to its external and internal security.

The benefits of such a demilitarization program cannot be underestimated. Demilitarization would allow the two Cypriot communities to work together to resolve their outstanding differences. Withdrawal of Turkish and Greek troops from Cyprus would eliminate the most likely source of conflict between these two NATO allies, thereby strengthening the southeastern flank of NATO. In addition, demilitarization would allow Turkey to utilize the funds now expended on its illegal occupation of Cyprus to fulfill its NATO obligations.

The United Nations is on record in two U.N. General Assembly resolutions in favor of the demilitarization

concept. I urge our colleagues to join me in actively promoting the demilitarization of the Republic of Cyprus as the best currently available opportunity for peace in that troubled nation.

BUDGET SCOREKEEPING REPORT

Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.2 billion in budget authority, and by $2.9 billion in outlays. Current level is under the revenue floor by $10.6 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $153.9 billion, $1.4 billion below the maximum deficit amount for 1988 of $155.3 billion.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., July 25, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1988 and is current through July 14, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the 1986 first concurrent resolution on the budget.

Since my last report Congress has taken no action that affects current level of spending or revenues.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE 100th CONGRESS, 2D SESSION AS OF JULY 14, 1988

[Fiscal year 1988—In billions of dollars]

	Current Level[1]	Budget resolution H. Con. Res. 93[2]	Current level +/− resolution
Budget authority	1,145.8	1,146.0	−.2
Outlays	1,031.8	1,034.7	−2.9
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,537.6	[3]2,565.1	−27.5
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1]The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2]In accordance with sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3]The permanent statutory debt limit is $2,800.0 billion.

PARLIAMENTARIAN STATUS REPORT 100th CONGRESS, 2D SESSION SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS JULY 14, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Recession of Jewish Education Centers Abroad (Public Law 100–251)	−8	−5	
Veterans Home Loan Program Emergency Amendments (Public Law 100–253)		1	
Assistance and Support for Central America (Public Law 100–276)		43	
Veterans Emergency Supplemental (Public Law 100–304)	709		
Veterans' Benefits and Services Act of 1988 (Public Law 100–322)	1	1	
Atomic Veterans Compensation Act (Public Law 100–321)[1]			
Catastrophic Health Care (Public Law 100–360)		5	
College-aid Annual Appropriation for Territories (Public Law 100–339)	(2)	(2)	
Total enacted this session	702	45	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans compensation:			
Previous law	282		
H.R. 1811	15	12	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	649	288	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of July 14, 1988	1,145,816	1,031,808	922,250
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE 100th CONGRESS, 2D SESSION AS OF JULY 14, 1988—Continued

[Fiscal year 1988—In billions of dollars]

	Current Level[1]	Budget resolution H. Con. Res. 93[2]	Current level +/− resolution
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,537.6	[3]2,565.1	−27.5
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1]The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2]In accordance with sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3]The permanent statutory debt limit is $2,800.0 billion.

PARLIAMENTARIAN STATUS REPORT 100th CONGRESS, 2D SESSION SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS JULY 14, 1988—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Amount remaining:			
Over budget resolution			
Under budget resolution	184	2,892,	10,550

[1]This act increases the current law estimate for veterans compensation, which requires an appropriation. The amount is shown in section V.

[2]Less than $500 thousand.

Note.—Numbers may not add due to rounding.

WELCOME BACK, SENATOR JESSE HELMS

Mr. DOLE. Mr. President, I just want to take a minute to say how good it is to see my colleague, my friend, JESSE HELMS back in the Senate, looking and sounding so fit.

JESSE was not away that long. But he is a very special Member of the Senate family, and his presence was missed.

We are all, of course, very grateful that his surgery went smoothly. And as is obvious from his appearance, that JESSE's recovery has been rapid and complete.

I know how anxious JESSE was to get back to work. He is an extraordinarily diligent Senator—with an exceptional voting record—99.7 percent attendance in the 99th Congress and 100 percent for the first half of the 100th. JESSE never misses a vote, unless it is absolutely necessary.

The people of North Carolina are very fortunate. Because no one represents their interests with more strength or more conviction than JESSE HELMS.

So. Mr. President, again, I want to say welcome back JESSE—it's good to have you home.

BICENTENNIAL MINUTE

JULY 25, 1866: ELECTION OF SENATORS BY STATE LEGISLATURES

Mr. DOLE. Mr. President, 122 years ago today, on July 25, 1866, Congress passed an act regulating the time and manner by which State legislatures would elect Members of the U.S. Senate.

The Constitution had assigned this responsibility to the individual State legislatures without specifying how and when elections of Senators should take place. For more than 75 years, the States acted independently, generally electing Senators by concurrent votes of the two houses of the State legislature. But this practice not infrequently led to deadlocks between the two houses and Senate seats went embarrassingly vacant. The new State of California, for instance, was unable to elect a Senator three times in the

1850's. Changes in party majorities in the legislatures sometimes resulted in two Senators from different parties claiming the same seat.

As a result of this scandalous situation, a bill was introduced in the Senate to set the time and manner for electing Senators, and the form of their credentials. For 5 years the bill languished in the Judiciary Committee, while the Senate was preoccupied with the larger issues of the Civil War. But in 1866, after another troublesome election in the New Jersey State Legislature, the measure was revived. This bill provided that on the first Tuesday after the meeting and organization of a legislature, when a Senator was to be elected, the two houses were to meet separately and vote for a Senator. On the following day, the two houses would meet jointly and the results of the voting compared. If both houses did not give a majority to the same man, then the joint assembly would meet every succeeding day at noon and take at least one vote to a day until they agreed upon someone.

This measure became law on July 25, 1866, but had little effect in discouraging deadlocks. The problem festered for another half century until it was solved by an amendment to the Constitution providing for election of Senators directly by the people.

RETIREMENT OF LOREN B. BELKER

Mr. EXON. Mr. President, at the end of this month, I have the difficult task of bidding farewell to my longtime friend and trusted adviser, Loren Belker, who will be retiring.

One of the lessons in life is that change is inevitable. However, Loren's retirement will be a very difficult change for me to contemplate.

Loren Belker is a true renaissance man. There are not many such men left in today's modern and technical-oriented American society. He is an accomplished leader, businessman, politician, author, and musician. Most importantly, he is a loving husband, father, and friend.

Loren has served as my administrative assistant and head of my staff for the past 5½ years. Prior to that, he worked for the Bankers Life Nebraska Co. for almost 30 years.

During that time he rose to the position of vice president at one of Nebraska's most successful businesses.

Politically, Loren has had an integral, key leadership role in each of my campaigns from Governor of the State to my race for the U.S. Senate. He was chairman of my 1970 and 1974 gubernatorial campaigns as well as my first 1978 Senate race. Of course, as my administrative assistant, he played a key role in all aspects of my 1984 reelection as well. However, even more important than all he did for me as a candidate is his work in building Nebraska's Democratic Party, played right along with his other major accomplishments. Beginning in the late 1960's, when we first met as church members, Loren undertook with a handful of other dedicated individuals the task of expanding our Democratic Party in a largely Republican State. His work has paid rich dividends. Nebraska Democrats are now competitive statewide in elections all the way from county commissioners to the Governor's mansion to the House of Representatives and the U.S. Senate.

This was a very difficult task and one which perhaps can only be appreciated by those who have been in such a position. In short, Loren Belker helped to lead us from the desert to the oasis of political maturity and competitiveness across the board. The fruit of his labor will be enjoyed for years to come as we Nebraska Democrats continue to compete, to get our share of the victories.

The list of accomplishments for most individuals who are about to retire would end here.

However, Loren is a man of many dimensions. He has authored three very successful books, one of which was on the Lincoln, NE bestseller list. In addition, Loren is an accomplished musician. For 10 years in his youth, he was a big band singer. Loren has kept up with his music. He was prominently featured in a Public Broadcasting documentary on the big band era just 3 years ago. Last year, Loren cut a new album which is a remarkable performance.

Mr. President, while I have tried to outline for the Senate a snapshot of the life and accomplishments of Loren Belker, no one else can truly appreciate him and what he has meant to me. He has always been there at my side when I needed him. Trust and true friendship through thick and thin are rare commodities. Both are part of Loren's makeup. When I needed him to guide my staff, he readily left Lincoln, NE and moved to Washington, DC. He has performed magnificently. And, just as important, it has been a wonderful experience to have such a good friend nearby.

So, as Loren Belker retires at the end of this month, I want to express to him the thanks of a grateful Nation and State of Nebraska for his unselfish public service. Like so many of our dedicated staff, he could have received better financial reward elsewhere. I want to express the gratitude of a grateful Democratic Party for Loren Belker, for all of his accomplishments, his dedication, and his skill. Finally, for my wife, Pat, and myself, I want to thank him and his wonderful wife, Darlene, from the bottom of our hearts for his help, devotion, and all of the wonderful friendship through these years.

Our travels through life bring many rewards, none more rewarding than our closest and best true-blue friends. The good Lord has been abundant to me in this area, none closer than the Belkers.

As Loren and Darlene move on to spend more time together in semiretirement in California, next to their family, I wish them both God speed. May He keep them both in the palm of his hand as they move on to new horizons and a continuation of their creative and talent-laden life together. We will miss them greatly but we will always be close.

RECESS

Mr. BYRD. Mr. President, I have discussed with the Republican leader having the vote at 11:30 and that is agreeable with him.

Therefore, I ask unanimous consent that the Senate stand in recess until the hour of 11:30 a.m. today.

There being no objection, the Senate recessed at 10:36 a.m. until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CONRAD).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

DEMOCRACY IN NICARAGUA

Mr. BYRD. Mr. President, I believe there is one rule XIV item.

The PRESIDING OFFICER. As if in morning business, the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 351) to advance democracy in Nicaragua.

Mr. BYRD. Mr. President, I object to any further proceedings at this time on this joint resolution.

The PRESIDING OFFICER. Objection is heard.

ENDANGERED SPECIES ACT AUTHORIZATION

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 467, S. 675.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Georgia [Mr. NUNN], and the Senator from Tennessee [Mr. SASSER], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], and the Senator from Oregon [Mr. PACKWOOD], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced as follows: yeas 78, nays 0, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—78

Adams	Grassley	Pressler
Baucus	Hatfield	Proxmire
Bentsen	Hecht	Pryor
Bingaman	Heflin	Quayle
Bond	Heinz	Reid
Bradley	Helms	Riegle
Breaux	Hollings	Rockefeller
Bumpers	Johnston	Roth
Byrd	Kassebaum	Rudman
Chafee	Kasten	Sanford
Cochran	Kennedy	Sarbanes
Cohen	Kerry	Shelby
Conrad	Lautenberg	Simon
Danforth	Leahy	Simpson
Daschle	Levin	Specter
DeConcini	Lugar	Stafford
Dixon	Matsunaga	Stennis
Dole	McCain	Stevens
Domenici	McClure	Symms
Durenberger	McConnell	Thurmond
Ford	Melcher	Trible
Fowler	Mitchell	Wallop
Glenn	Moynihan	Warner
Gore	Murkowski	Weicker
Graham	Nickles	Wilson
Gramm	Pell	Wirth

NAYS—0

NOT VOTING—22

Armstrong	Dodd	Karnes
Biden	Evans	Metzenbaum
Boren	Exon	Mikulski
Boschwitz	Garn	Nunn
Burdick	Harkin	Packwood
Chiles	Hatch	Sasser
Cranston	Humphrey	
D'Amato	Inouye	

So the motion was agreed to.

ENDANGERED SPECIES ACT AUTHORIZATION

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 675) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. DEFINITIONS.

Paragraph (15) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended by inserting "also" before "means the Secretary of Agriculture".

SEC. 2. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph (C) of section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 to prevent a significant risk to the well being of any such species.".

(b) SIMILARITY OF APPEARANCE.—Subsection (e) of such section 4 (16 U.S.C. 1553(e)) is amended by striking out "regulation," and inserting in lieu thereof "regulation of commerce or taking,".

SEC. 3. RECOVERY PLANS.

Section 4(f) of the Endangered Species Act (16 U.S.C. 1553(f)) is amended to read as follows:

"(f)(1) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable—

"(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

"(B) incorporate in each plan—

"(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

"(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

"(iii) estimates of the time required and the cost to carry our those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

"(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

"(3) The Secretary shall report annually to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed.".

SEC. 4. MONITORING OF RECOVERED SPECIES.

Section 4 of the Endangered Species Act (16 U.S.C. 1533) is amended by re-designating subsections (g) and (h) as subsections (h) and (i) and by inserting the following new subsection:

"(g) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).

"(2) The Secretary shall make prompt use of the authority under paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.".

SEC. 5. COOPERATION WITH THE STATES.

(a) MONITORING OF RECOVERED SPECIES.—Paragraph (1) of section 6(d) of the Endangered Species Act (16 U.S.C. 1535(d)(1)) is amended to read as follows:

"(d) ALLOCATION OF FUNDS.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 4(b)(3) and recovered species pursuant to section 4(g). The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species within a State;

"(D) the potential for restoring endangered species and threatened species within a State;

"(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species; and

"(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species.

"(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this Act are again necessary.

"So much of the annual appropriation made in accordance with the provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is

authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.".

(b) APPROPRIATIONS.—Section 6 of the Endangered Species Act (16 U.S.C. 1535) is amended by adding the following new subsection:

"(i) APPROPRIATIONS.—(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to five percent of the combined amounts covered each fiscal year into the Federal aid in wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under section 1016 of the Act of July 18, 1984.

"(2) Amounts deposited into the special fund shall be available annually, without further appropriation, for allocation in accordance with subsection (d) of this section.".

SEC. 6. PROTECTION OF PLANTS.

Section 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law;".

SEC. 7. PENALTIES AND ENFORCEMENT.

(a) CIVIL PENALTIES.—Paragraph (1) of subsection (a) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$10,000" and inserting in lieu thereof "$25,000", and by striking "$5,000" and inserting in lieu thereof "$12,000".

(b) CRIMINAL VIOLATIONS.—Paragraph (1) of subsection (b) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$20,000" and inserting in lieu thereof "$50,000", and by striking "$10,000" and inserting in lieu thereof "$25,000".

(c) REWARDS.—Subsection (d) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by adding at the end thereof the following sentence: "Whenever the balance of sums received under this section and section 6(d) of the Act of November 16, 1981 (16 U.S.C. 3375(d)) as penalties or fines, or from forfeitures of property, exceed $300,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 6(i) of this Act.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. (a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1998, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g), and (h) not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

"(c) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.".

● Mr. BURDICK. Mr. President, this bill amends one of our Nation's foremost environmental laws, the Endangered Species Act, to improve our ability to protect and restore species in danger of becoming extinct.

The Endangered Species Act amendments in S. 675 were approved unanimously by the Committee on Environment and Public Works late last year. Many of these changes also are in the bill passed by the House.

They continue our efforts over the past two decades to conserve threatened and endangered species. In that time we also have found ways to be flexible in our approach to protecting these species.

As a result, there have been few irresolvable conflicts. In virtually every case we have prevented harm to plants and animals near extinction without interfering with other important activities.

The bill reported by the committee continues that successful approach to preserving our biological heritage by authorizing modest increases in spending to carry out the act through 1992.

The bill focuses on helping species recover more quickly to the point where they no longer require protection under the act. In the end, recovery of species is our best means of reducing conflicts.

Mr. President, I have asked Senator MITCHELL, the chairman of the Subcommittee on Environmental Protection, to serve as manager of the bill during its consideration on the floor.

I would like to take this opportunity to recognize him for his leadership in developing one of the most important pieces of environmental legislation considered in this Congress.

I also want to acknowledge the contributions made by the ranking member of the committee, Senator STAFFORD, and the ranking member of the Subcommittee on Environmental Protection, Senator CHAFEE.

And I urge my colleagues to support the prompt consideration and passage of these important improvements in the Endangered Species Act.●

Mr. MITCHELL. Mr. President, this is an important moment for all Americans who care about the quality of our environment. Today, for the first time since 1982, the full Senate considers legislation to renew and refine the Endangered Species Act.

The bill before us, S. 675, contains a number of provisions to improve our ability to meet the goals of the Endangered Species Act and to continue the authorization for appropriations to implement the act through fiscal year 1992.

I express my appreciation to the chairman of the committee for his kind remarks and thank him for his efforts in behalf of this legislation. As always, Senators STAFFORD and CHAFEE played valuable roles in the bill's development and I thank them. And finally, I thank the 43 cosponsors of S. 675 and the other Senators who have expressed support for this bill.

More than 20 years have passed since the first legislation was enacted to protect plant and animal species which are in danger of becoming extinct. The present comprehensive Endangered Species Act became law in 1973 and was amended in 1976, 1977, 1978, 1979, and 1982.

The long and painstaking development of our Federal Endangered Species Program demonstrates an unwavering dedication to the protection of these species and their habitat by the Congress and the American public.

The established policy of this Nation to prevent the extinction of plants and animals recognizes that each species is a unique solution to the problems faced by all living things and, therefore, each may be of immense value to us in any number of ways.

Aspirin originally was derived from a willow. A marine snail off the coast of California contains a chemical useful in reducing blood pressure. A small plant from Madagascar is now known to produce one of the best treatments we have for certain types of cancer.

The greatest contribution made by plant and animal species, however, is the opportunity they provide for human society to increase its knowledge of living organisms. As living organisms ourselves, it is in our self-interst not to limit the growth of that knowledge.

We protect the most obscure species, then, not just because they may pro-

vide us with a cure for cancer but because all the world's living material continually provides us with ways of improving our existence, and species which seem unimportant today may become useful or essential tomorrow.

In the long run, full and proper implementation of the Endangered Species Act is the best means of protecting the diversity of other life forms and the quality of our lives.

The legislation we are considering today, therefore, will provide for effective implementation of the Endangered Species Act through 1992. It is a strong statement of our continuing commitment to protect fully those species of plants and animals which are on the brink of extinction.

The 5-year extension of the Endangered Species Act is intended to provide greater stability and certainty in the provisions of the act and its implementing regulations. Short authorization periods and frequent amendments and regulatory revisions have kept the endangered species program in a state of flux, resulting in inefficiency and misallocation of extremely limited resources within the program.

In the past, 3-year reauthorizations of the act have meant that Congress has been asked to make sound judgments on alleged problems based on never more than 18 months of experience with any given version of the law and regulations. This endless tinkering with the act has kept the U.S. Fish and Wildlife Service in a perpetual stage of rulemaking, which is not in the interest of endangered species protection or economic development. This bill will allow sufficient time for the new amendments to be implemented and evaluated adequately.

The spending levels last authorized in 1982 have been raised in section 8 of this legislation to offset the effects of inflation from 1982 to 1988. Similarly, for fiscal years 1989 through 1992, the spending authorizations are increased approximately 4.3 percent annually to anticipate the expected rise in cost of living. The percentage increases are based on the Congressional Budget Office's estimates of the annual change in the Consumer Price Index.

The administration opposes these increased authorization levels. But the Federal spending levels authorized by the Senate bill are identical to those approved by 399 Members of the House of Representatives last December.

Moreover, the increased funding authorized for endangered species programs by both bills is very modest compared to the increased State and Federal responsibilities for protection and recovery of these species.

For example, from the end of fiscal year 1981 through fiscal year 1988:

Approximately 235 species will have been added to the Endangered Species Act, an 86-percent increase;

The number of approved recovery plans, which identify actions needed to restore a species' numbers, will have increased 350 percent; and

The number of cooperative agreements with States to implement recovery activities will have increased 170 percent.

Overall, the number of species protected under the act and, consequently, the number of required consultations and recovery activities is increasing by about 10 percent per year. Yet the amount of funds appropriated to meet these increased responsibilities will have increased a total of only 4 percent since fiscal year 1981.

The spending limits established by section 8 of S. 675 seek to ensure that, at a minimum, we maintain our efforts to protect endangered species against the debilitating effects of inflation since 1982, and that we put increased emphasis on recovery of species so that they no longer require protection under the act.

Of the more than 400 U.S. species that have been listed as threatened or endangered to date, just 4 have rebuilt their numbers sufficiently to be removed from the lists. Only another 16, or about 4 percent of all listed U.S. species, are thought to be recovering.

Consequently, in addition to the appropriations authorized by section 8 of S. 675, many of the bill's substantive amendments to the Endangered Species Act are intended to speed the restoration and delisting of more species.

Section 3 of the bill, for example, amends section 4(f) of the act to require explicitly the development and implementation of recovery plans without regard to a species' taxonomic classification, for example, bird, mammal, invertebrate or plant.

The administration opposes this provision of the bill. But as this committee stated in the report accompanying its 1982 amendments to the act, "preferential treatment for 'higher life forms,' species of a higher taxonomic order, has no basis in the act nor in these amendments."

Unfortunately, however, for the 5-year period from fiscal year 1982 through fiscal year 1986, 5 percent of the listed U.S. species—12 species of birds, mammals, and sea turtles—received about 45 percent of the available funding for development and implementation of recovery plans and actions.

Little or no money was expended for recovery of listed insects, mollusks, crustaceans, and plants, even though the continued need to protect such species under the act may result in greater conflicts with human activities.

Section 3 of S. 675 requires Federal resources to be allocated on the basis of biological information, with priority given to those species that are most likely to benefit from such support and that are, or may be, in greatest conflict with development activities.

This section of the bill also requires that each recovery plan for a species incorporate descriptions of site-specific management actions to achieve recovery, criteria by which to judge success of the plan, and timeframes and estimates of costs to carry out the planned recovery.

These descriptions, criteria, and estimates currently are not provided uniformly in recovery plans. Recovery plans have been written for 243 of the 425 U.S. protected species but most have not received funding to begin implementation and provide no means by which to judge their success.

Incorporation of this information will ensure that plans are as explicit as possible in describing the steps to be taken in the recovery of a species and will provide a means by which to judge the progress being made toward recovery.

Section 4 of S. 675 also will facilitate progress toward recovery and delisting by assuring that a species' status will continue to be monitored for 5 years once it is no longer protected by other provisions of the act, and by assuring that a species will be relisted promptly if it again declines to the point where it is likely to become threatened or endangered.

Section 5 of the bill amends section 6 of the act by establishing a cooperative endangered species conservation fund from which matching funds would be allocated annually to the States without further appropriation to provide the kind of adequate, long-term support needed to recover species.

Many of the successful comebacks made by species on the brink of extinction have resulted from section 6 cooperative State and Federal endeavors.

Bald eagles and peregrine falcons are two dramatic beneficiaries of the section 6 program. The progress made in restoring these two species in Maine and elsewhere over the past decade demonstrates that it is within our power to bring about positive results.

But as we have seen with these and other species, the recovery of most endangered species requires a sustained effort over many years. Instead, Federal support has been such a roller-coaster that long-term projects have been discouraged.

Moreover, the amount of Federal matching grants to States under the act is roughly the same as it was in 1977. Yet, there are four times as many cooperative Federal-State agreements eligible for support today as there were in 1977 and twice as many species in need of assistance.

The current Federal contribution to cooperative recovery projects with the States is so small that fully two-thirds

of all U.S. species protected under the act receive not a cent of benefit from it.

I will offer shortly a committee amendment to ensure that any matching funding for the cooperative program with the States is subject to the annual appropriations process, and I will have more to say about the importance of supporting this program at that time.

I will just remind my colleagues that the conference report to the original 1973 act stated that:

> The successful development of an endangered species program will ultimately depend upon a good working arrangement between the federal agencies, which have broad policy perspective and authority, and the state agencies, which have the physical facilities and the personnel to see that state and federal endangered species policies are properly executed. The grant program authorized by this legislation is essential to an adequate program . . . The conferees wish to make it clear that the grant authority must be exercised if the high purposes of this legislation are to be met.

We have yet to exercise that authority in a consistent and effective manner.

Section 7 of S. 675 seeks to improve recovery efforts by increasing the maximum fines and penalties for violations of the act and allowing some of these proceeds to be used under the section 6 Federal: State Cooperative Program.

The maximum civil penalties—except for nonknowing violations, for which the existing $500 maximum would remain unchanged—and criminal fines would be increased by a factor of two and a half. These penalties, fines and net proceeds from the sale of seized items would then be used not only for recovery programs but also for payment of rewards and to offset the cost of caring for seized specimens.

Existing penalties and fines under the act have not been changed since 1973 despite an increase in the cost of living over that period of approximately 150 percent. Since 1973, the costs to the Government of restoring species and rectifying the adverse effects of violations also have increased and now can greatly exceed the current penalties and fines for violations of the act.

There is a clear link between violations, which necessarily impair efforts to recover species, and funding for cooperative Federal: State endeavors, which are essential to the act's goal of recovery.

Increased penalties and fines also are needed to provide greater deterrence against violations of the act, since the profits to be made from illegal activities often dwarf current penalties.

The present act also is deficient in the level of protection provided for plants, which is insufficient and still lags far behind that provided for animals.

Consequently, section 6 of S. 675 amends section 9 of the act to make it unlawful not only to remove and reduce to possession any endangered species of plant from areas under Federal jurisdiction, but also to maliciously damage or destroy such species on Federal lands. It also would be unlawful to remove, cut, dig up, or damage or destroy any endangered species of plant on any other area in violation of State law or in the course of any violation of a State criminal trespass law.

Currently, anyone who captures, kills or otherwise harms an endangered animal commits a violation of the act for which substantial criminal and civil penalties may be imposed. By contrast, it is not unlawful to pick, dig up, cut or destroy an endangered plant unless the act is committed on Federal land; and even on Federal land, there is no violation of the act unless the plant is removed from the area of Federal jurisdiction.

The basis for this differential treatment of plants and animals under the act apparently was the recognition that landowners traditionally have been accorded greater rights with respect to plants growing on their lands than with respect to animals. The amendment made to the act by section 6 of S. 675 does not interfere with the rights traditionally accorded landowners but instead reinforces them in a way that also benefits the conservation of endangered plant species.

The need for additional protection of endangered plants on Federal lands is highlighted by the Fish and Wildlife Service's decision not to identify critical habitat for such species when they are listed in order to avoid identifying their location and making them vulnerable to illegal collection and vandalism. For example, no critical habitat was designated for any of the 24 plant species occurring in whole or in part on Federal lands which were listed between May 1986 and March 1987.

Additional protection for endangered plants on private and other non-Federal lands also is needed. The act currently offers no protection for endangered plants on these lands. Since early 1985, 59 of the 69 plant species listed occur in whole or in part on non-Federal lands. Many of these plants occur on lands acquired by nonprofit conservation organizations or on privately owned lands where the landowner has signed a voluntary agreemen to help protect the species. Yet generally ineffective State trespass laws are often the only deterrent against vandals and unscrupulous collectors.

Endangered plants have been vandalized or taken from private land against the wishes of landowners. Most private landowners take pride in the presence on their lands of unique or rare species and are eager to cooperate in their protection. However, private landowners often cannot effectively deter the theft or destruction of plants within their property because the penalties for violations of State law are often too low to provide sufficient deterrence. The penalties authorized by the Endangered Species Act provide a much stronger deterrent to these unlawful activities.

Section 1 of the bill also is aimed at improving protection of plants by amending the act to give the U.S. Fish and Wildlife Service enforcement authority, concurrent with that of the Agriculture Department's Animal and Plant Health Inspection Service [APHIS], over the importation and exportation of plants protected by the act or the Convention on International Trade in Endangered Species [CITES].

Currently, that authority is vested solely in the Secretary of Agriculture, who has delegated it to APHIS. The resources allocated by APHIS to prevent the sizable and sophisticated illegal international trade in protected plants are inadequate.

In an effort to improve enforcement, APHIS and the Fish and Wildlife Service had a memorandum of understanding in 1984 and 1985 under which the Fish and Wildlife Service investigated some import and export violations. During that period, the Fish and Wildlife Service initiated five prosecutions under the agreement for illegal trade in plants protected under CITES. By contrast, during the period 1981 to 1985, according to information submitted by the Department of Justice, APHIS did not initiate a single prosecution of an alleged violator of CITES or the act.

The amendment to the act made by this legislation, therefore, is intended to supplement the existing enforcement with respect to import and export violations involving protected plant species. It is not intended to shift primary enforcement responsibility at ports for such violations away from the Department of Agriculture to the Fish and Wildlife Service.

Finally, section 2(a) of the bill amends the act to require the Secretary to implement a system to monitor effectively the status of candidate species, that is those species that appear to warrant listing but that have not yet been listed or denied listing. In addition, the existing emergency listing authority is to be used whenever, as a result of the monitoring, it is determined to be appropriate to prevent a significant risk to the well-being of any such species.

The Service currently has sufficient information to warrant preparation of a formal listing proposal for approximately 950 so-called category I candi-

date species. At the present level of resources, however, the Service projects that it may take approximately 20 years to list these candidate species. Under the current law, these species receive no protection until they are formally proposed for listing.

In the past 3 years several candidate species are reported to have gone extinct before listing was completed. Other species have undergone substantial declines in numbers or distribution before they were protected. The bill before us today will correct this shortcoming.

It will establish a system that will help prevent extinctions or substantial declines of candidate species. Such a system will be an important land use planning and habitat protection tool for State and Federal agencies, private conservation organizations, private landowners, and the scientific community. The advanced notice that a species may be listed in the future reduces the potential for serious conflict later with other activities.

Mr. President, in developing this legislation, we endeavored to resolve as many of the concerns expressed by other Senators as was possible.

For instance, the issues involved in the management of threatened species such as the wolf and grizzly bear were considered thoroughly and are addressed at great length in the report accompanying S. 675.

In that report, we expressed our view that the present hunting of grizzly bears in Montana is consistent with the goals of the Endangered Species Act and that the Secretary of the Interior has flexibility to allow regulated taking of experimental populations of wolves and other species when necessary to avoid public opposition to the establishment or maintenance of such populations.

We have addressed a number of additional concerns that have been identified since the bill was placed on the calendar last December. Consequently, we now are prepared to sponsor amendments and to accept amendments by other Senators that will do the following:

First, require the Environmental Protection Agency to undertake a program of education and study with regard to its Endangered Species Protection Program to prevent harm to endangered or threatened species from pesticides with minimum disruption to agriculture;

Second, delay implementation of regulations requiring shrimp fishermen to protect endangered and threatened sea turtles by using turtle excluder devices;

Third, extend the present certificates of exemption for scrimshaw products;

Fourth, delete the appropriations provision in section 5 of the bill; and

Fifth, amend the definition of the term "person" in the act to clarify that the requirements of the act apply to municipal corporations.

With the amendment to the appropriations provision in section 5 of S. 675, we are not aware of any objection by Senators to any of the provisions in the bill, which, as I stated earlier, focus on recovering endangered and threatened species to the point where they no longer require protection.

The legislation now has 43 cosponsors. At least six other Senators have written in support of today's action on S. 675. Moreover, as I suggested earlier, very similar legislation passed the House of Representatives on December 17, 1987, by a vote of 399 to 16.

Mr. President, it has now been nearly 3 years since the authorization to appropriate funds to carry out the Endangered Species Act expired. During this period, the Senate has not acted on legislation passed twice by the House of Representatives or reported twice by the Committee on Environment and Public Works.

It is important that the Senate show its strong support for the Endangered Species Act during the 100th Congress.

I hope my colleagues will vote to approve this legislation to ensure that we use our Nation's resources in a manner that protects our natural biological heritage. In the end that will be the best use of our resources.

Mr. MOYNIHAN. Mr. President, I rise today to offer my support for S. 675, the Endangered Species Act Amendments of 1987. As an original cosponsor of this legislation, I am gratified that it is now being considered by the Senate.

I would like to commend the Senators from Maine and Rhode Island, Senators MITCHELL and CHAFEE, for their diligence as advocates for the improvements in the Endangered Species Act contained in S. 675. I hope that this legislation will soon be placed before the President for his signature.

Among the important changes contained in this legislation are new listing and recovery plan requirements, the establishment of a secure source of funding for Federal-State programs, and dramatically increased penalties for violations of the act.

Despite the valuable improvements contained in this legislation, I remain concerned that our enforcement ability remains weak. And, although I would like to see much greater resources provided to the Fish and Wildlife Service and other agencies to enforce the Endangered Species Act against illegal takings of protected species of the United States, the focus of my remarks today will be on the need for greater enforcement powers against illegal international trade in endangered species.

As the Senators from Maine and Rhode Island are aware, I had considered offering an amendment today to increase the authority of the President and U.S. Trade Representative to enforce international agreements that govern international trade in wildlife. However, because of the need to expedite the consideration of this very useful legislation, and the certain opposition from the administration to my amendment, I have decided to withhold for now.

Still, if I do not see serious movement by the administration to enforce international agreements on trade in endangered species, I will be back with this amendment on another bill. And soon.

Let me explain. My amendment is not complex. It is identical to S. 2638, which I introduced on July 13. It would make actionable under section 301 of the Trade Act of 1974, as unreasonable, foreign country practices that diminish the effectiveness of international agreements that protect endangered or threatened species. I have also introduced legislation that applies the same concept to international fishery conservation agreements.

Section 301 provides the President broad discretion to impose trade sanctions against unfair foreign trade practices. For example, the President could impose tariffs or quotas on a country's exports to the United States, or in the case of a developing country the President could revoke the benefits of the Generalized System of Preferences.

In addition, private parties who are impacted by illegal wildlife trade would be permitted to file a petition with the U.S. Trade Representative, who administers section 301, asking for trade sanctions.

At first glance, my amendment may sound like a major departure in U.S. trade law. However, I consider it a modest extension of section 301. Indeed, perhaps a clever lawyer could argue that foreign country practices that diminish international agreements on endangered species are already actionable under section 301. However, the problem is that under this administration such an argument would be rejected—and a petition with such allegations dismissed.

Nevertheless, U.S. law already provides that trade by a foreign country which diminishes the effectiveness of either an agreement on endangered species or one on fishery conservation, subjects a country to sanctions. Under the Packwood-Magnuson amendment to the Fishery and Conservation Management Act of 1976, a country may lose its fishing rights in the U.S. exclusive economic zone. Under the Pelly amendment to the Fisherman's Protective Act of 1967, the President may embargo fish or wildlife imports from the offending country.

And, indeed, on a number of occasions countries have had their fishing quotas reduced under the Packwood-Magnuson amendment. The most recent example is the certification made against Japan for taking 300 minke whales in Antarctic waters last winter. The only problem with reducing fishing quotas in the exclusive economic zone in response to Japan's illegal whaling is that Japan has no such fishing quota to lose. Neither does almost any other country.

Meanwhile, the President refused to impose, pursuant to the Pelly amendment, an embargo against fishery products from Japan, the only other authorized response against the Japanese hunt. The United States enjoys a sizable fishery products trade surplus with Japan, and United States fishery exporters were understandably concerned that possible Japanese counter-retaliation might fall on them.

It may also be that the administration does not take the Japanese whaling violation very seriously. The Pelly amendment embargo sanction has never been imposed for illegal trading in any fishery or wildlife species, despite numerous documented cases of trade violations.

The Fish and Wildlife Service has been somewhat bolder of late, but they have limited enforcement powers against foreign countries. The Endangered Species Act and the Lacey Act give them the authority to prevent the import of wildlife from a country, and they have imposed bans against violators such as Singapore, Bolivia, and the Philippines in recent years.

In short, U.S. law already provides for trade sanctions against countries that violate international agreements protecting wildlife and marine resources. But the existing sanctions are not sufficiently effective. They are too narrow or too blunt.

The President needs more flexibility than an embargo against fish or wildlife provides. Other products should be potential targets of trade sanctions. And an embargo is perhaps a too provocative response. My section 301 amendment would provide the needed flexibility.

In the case of Japan, for example, if the President imposed penalty tariffs on automobiles or semiconductors in response to illegal whale trading, as he could under section 301, the Japanese Government might reconsider its current policy. It would also strengthen the position of those officials in Japan who want a more responsible Japanese Government policy, but lack the necessary leverage to impose it upon the Ministry of Agriculture, Forestry, and Fisheries, which permitted the whaling to go forward. We much increase the accountability of the famed Ministry of International Trade and Industry for wildlife trade issues.

As distinguished members of the Finance Committee, both the Senators from Maine and Rhode Island are keenly aware of section 301. Indeed, Senator CHAFEE joined me as lead sponsor of the section 301 title of the omnibus trade bill. In those revisions to section 301 the denial of workers rights, as defined in the conventions of the International Labor Organization, will become actionable as an unreasonable practice under section 301. I want to do the same for the agreements that protect endangered species.

Of course, the administration and a number of my colleagues in the trade bill conference resisted the expansion of section 301 to workers' rights. They claimed that section 301 is only intended to provide leverage to enforce trade agreements, to open foreign markets to U.S. exports. They also claimed we could not possibly enforce ILO standards against most U.S. trade partners—even though most of them are members of the ILO.

But, as we know, the ILO and the legal conventions giving definitions to workers rights emerged precisely because of international trade concerns. Indeed, these agreements were drafted to prevent countries from gaining an advantage in trade by compromising the health and safety of their workers.

In the same regard, international agreements have emerged that put legal limits on the commercial exploitation of species, so that they can continue to be traded. The alternative is extinction. Certainly the 1946 International Whaling Convention was motivated not by those who sought conservation for conservation sake, but out of a recognition that the continued unrestricted hunting of whales would both extinguish the species and the industry.

The major legal agreement that protects endangered species was signed in 1973. It is called the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES for short. The operative term in the title of the agreement is "international trade." This is not an agreement fundamentally about the conservation of habitat or biological research. It is an agreement, now with 95 signatories, which establishes a permit system to control the legal trade of endangered species and to prevent their illegal trade. A trade agreement.

But a major problem with CITES is that it has no enforcement provisions. If the member countries fail to enforce the agreement, it cannot succeed. We implement CITES through the Endangered Species Act. Other signatories have not been as rigorous in their enforcement.

CITES does have a modest Secretariat based in Lausanne, Switzerland. And CITES has been doing its best to identify countries that are undermining the agreement, despite its inability to force compliance.

In 1987, for the first time, CITES published a list of country infractions. This document would be a useful starting point for the consideration of possible sanctions under section 301. Four countries were singled out for having "serious general problems of CITES implementation": United Arab Emirates, French Guiana (France), Bolivia, and Paraguay. In 1987, the United Arab Emirates withdrew from CITES rather than face the censure contained in the report.

Other countries that have serious CITES problems include: Burundi, Yemen Arab Republic, Japan, Indonesia, Thailand, Taiwan, Singapore, Honduras, Mexico, Italy, and West Germany.

The major wildlife products that are illegally traded are elephant ivory tusk, rhinocerus horn, reptile skins, and sea turtle shells. The illegal market in these products is, according to the World Wildlife Fund, between $1 to $2 billion annually.

As a consequence of demand for ivory for jewelry and ornamental carvings, the population of the African elephant has fallen by approximately 50 percent in the last decade. The black rhinocerus has been reduced by 90 percent since 1970. The rhino horn is carved into daggers in Arab countries, and is believed to have medicinal value in Asian countries.

Although most trade in the reptiles of South America is banned under CITES, as many as one million skins were illegally exported from Brazil, Paraguay, Bolivia, and Colombia last year. Most are shipped to Italy, France, and Japan, where they are worked into finished products and often reexported to the United States with false documentation.

Sea turtle shells are prized for their ornamental value in Japan. Imports into Japan have come from Indonesia, Cuba, Panama, Singapore, and the Philippines. Most of the exports to Japan have been made illegally according to these countries. Japan has entered many reservations from CITES for sea turtles, thereby removing itself from CITES trade restrictions in them.

Unfortunately, Japan's sea turtle problem and recent whale hunt are only symptomatic of a widespread indifference in Japan to the consumption of illegally traded wildlife. Japan trades in more endangered species than any other country, and has more CITES reservations than any other signatory. Japan accepts large quantities of wildlife "laundered" through Singapore, Taiwan, Thailand, and Hong Kong. Japan is also a major source of illegal demand for bear gall bladder and musk deer from India, China, Nepal and Pakistan, and lizard

skins from Bangladesh and other Asian nations.

The problem for CITES is not an absence of evidence of illegal trade. The problem is enforcement. Under these circumstances, the United States should enforce CITES through our trade laws, whether it is section 301 or some other legislation still to be proposed.

At the same time, I recognize that we must be somewhat careful in how fast and how far we go toward the unilateral enforcement of CITES and other such agreements. That is why I have today written a letter to Ambassador Clayton Yeutter, the U.S. Trade Representative.

In the letter I call upon Ambassador Yeutter to use the current Uruguay Round of GATT negotiations to complete a code on enforcement measures for conservation agreements, such as CITES. After all, GATT article XX already permits signatory countries to take measures to conserve natural resources. That is the legal basis upon which we could defend action under section 301, and upon which a new GATT Code should be negotiated.

In short, it is time to bring trade in wildlife within the mainstream of international and U.S. trade law. That is the only hope that I see to slow the rapid depletion of species that are hunted for their commercial value.

The tide of mounting extinctions is ominous. It is estimated that one species of wildlife becomes extinct each day. And in a gathering tide, it is possible that we will lose up to 20 percent of the 5 to 10 million species of wildlife by the year 2000. And illegal trade is a major threat. One reliable estimate holds trade responsible for 20 percent of all birds that are endangered, over 30 percent of all mammals, and 50 percent of all reptiles.

Mr. President, we must use section 301 and the GATT to slow the pace of extinction that haunts us. And we must do it immediately.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am proud to be here today with my good friend and chairman of the Subcommittee on Environmental Protection, Senator MITCHELL, as we move to consideration of amendments to the Endangered Species Act of 1973. We have been trying to get the Senate to renew this law for several years. Our colleagues in the House have been waiting patiently and today, for the first time since 1982, the Senate is going to act.

This is not an obscure or highly technical subject. Everyone has heard of the Endangered Species Act. Everyone knows it is a significant law. But some people may not know why it is so significant.

When this act first became law in 1973, 15 years ago, it was an important environmental achievement for two reasons. First, it not only established a comprehensive program for wildlife preservation in this country, the United States of America, but it also became a model for the entire world. And I think that is very important for us to remember; that the Endangered Species Act sets a goal for the whole rest of the world. What we do in the United States sets the pace, sets the tone of leadership for the balance of the rest of the world. And that is as it should be.

Certainly this law is about saving such well-known species as the bald eagle, that majestic bird, and the powerful grizzly bear, the whooping crane and the California sea otter. But it is also about saving the fragile piping plover, a shore bird found in Rhode Island, and hundreds of obscure plants, flowers, and insects.

We often hear that the reason we need to save species of plants and wildlife is because one of these rare organisms may hold the cure to cancer. "Do not kill any of the wildlife or the insects or the flora and fauna because somewhere we may be killing off the solution to cancer." And that is right and that is good. Or "it may carry a genetic secret that will revolutionize agriculture as we know it today." And that is right and that is good. But there are other reasons as well.

This law has a higher purpose than just saving these flora and fauna for some practical reason. This law recognizes that endangered species are of esthetic, ecological, educational, historical, recreational, and scientific value to all of us as citizens of this Nation and as citizens of the world, and the law declares its purpose as providing "a means whereby the ecosystems upon which (they) depend may be conserved."

Aldo Leopold, the famous environmentalist and founder of modern wildlife ecology told us:

> If the biota, in the course of aeons, has built something we like but do not understand, then who but a fool would discard seemingly useless parts? To keep every cog and wheel is the first precaution of intelligent tinkering.

Mr. President, this excellent advice should be remembered by all of us as we prepare to vote on the bill before us.

The extinction of a single species can be an act of uttermost recklessness. Our distinguished former colleague, a member of the Environment Subcommittee, James Buckley from New York, said that the process by which human actions cause the extinction of species is tantamount to book burning. In fact, it is even worse than book burning because it involves books that have not been deciphered and read.

Mr. President, extinction is an act of finality. Extinction means it is gone. Remember, we used to read about the passenger pigeon. The skies were darkened by the passenger pigeon in the middle part of the last century and the passenger pigeon was going to last forever. And so it was killed and slaughtered, an open season on it forever. Suddenly, we discovered that there were only a few left and finally they are all gone—extinct. It was done, an act of incredible finality. The public is painfully aware of this and it is incumbent, it seems to me, upon all of the Members of this body to recall that.

The history of the Endangered Species Act includes a period in the late 1970's when there was considerable controversy—in the press, in Congress, and in the courts. At issue was the question of balance between the need to preserve endangered species and the need to build a massive dam project. The law was amended at that time and it has worked well ever since.

In 1982, we passed another series of amendments that, in many respects, strengthened the original law. With the support of environmentalists as well as development interests, we included new provisions to improve the law—to make it more flexible without weakening the underlying law.

In 1985, it was again time to consider an extension of the law. The Committee on Environment and Public Works approved a bill to extend the law through fiscal year 1988 with increased funding levels. No substantive amendments were included because of our decision that no major changes were needed. Unfortunately, the Senate did not have an opportunity to consider that bill.

The bill we are considering today has been in the making since 1985. This version of the bill was approved unanimously by the Committee on Environment and Public Works on November 10, 1987. Senator MITCHELL's statement and the committee report do an excellent job of explaining the bill so I will not repeat what has already been said.

In many respects, the whole world is watching what we do here today. David Attenborough, a noted British zoologist and host of the PBS series "The Living Planet" explained why when he testified before Congress:

> The Endangered Species Act is a courageous national statement that Americans care about their magnificient land and its wealth of living resources. What the United States, the world leader of conservation does, is carefully watched—and duplicated by many other nations as best they can.

This is a standard that the other nations try to meet.

> If this country were suddenly to lessen its commitment to the welfare and survival of its wildlife, what hope would other less wealthy countries have of persuading their

government and their people to conserve and protect, particularly when pressing short-term decisions to spend money and allocate land are much harder to take there than they are here?

In this country where we fortunately have an abundance of both.

Mr. President, in this context, I wish to comment on a recent administrative decision that concerns me and may well be illegal. Prior to June 1986, regulations implementing the act made it clear that the law applies to any action authorized, funded, or carried out by a Federal agency. It is not limited to actions within the United States. It is covered wherever our Federal agencies operate. Last year, however, those regulations were rescinded.

This was done despite increasing concern about the destruction of tropical rain forests and the loss of biological diversity. The act is designed to make sure that we, the U.S. Government, do not contribute to these problems. In fact, section 7 of the law says that we must help solve these problems.

It is important, therefore, to note that in considering the bill before us today, the Congress is not in any way ratifying or approving that rescission of the regulation. With or without those specific regulations, the law is clear.

It applies to Federal agencies that are operating within or outside of the United States. Any other interpretation is intolerable and I believe illegal.

Mr. President, the Endangered Species Act is one of our most important environmental laws and I think it is necessary for all of us to recognize that and to remember it.

The time has come for us to review it, debate it, and pass a bill extending the authority to fund it. People care about this law and it is our job as elected Senators to see that it is extended. I urge my colleagues to vote for it and against any weakening amendments that may be offered today.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I support S. 675, the Endangered Species Act Amendments of 1987 and commend the principal sponsors of this important legislation, Senator GEORGE MITCHELL, the chairman of the Subcommittee on Environmental Protection and Senator JOHN CHAFEE, the ranking member of the subcommittee. I am glad to be a cosponsor.

Authorization of appropriations for the Endangered Species Act expired in 1985. The bill authorizes increased appropriations through fiscal year 1992 and also makes significant program amendments to the act.

The bill would initiate new arrangements to monitor the status of species that have recovered and have been delisted as endangered for up to 5 years after their delisting. It also provides for emergency relisting in the event of species decline. For rare and vulnerable species that are candidates for listing, there is established a plan to monitor the status of candidate species to prevent decline or loss of such species. It is estimated that the Department of the Interior faces a backlog of nearly a thousand vulnerable species. At the current rate of processing candidates, I am told it would take more than 20 years to list and plan recovery for species already in the backlog. Rare and vulnerable candidates should be more closely monitored.

Among other provisions, the bill would strengthen the cooperative programs between the Federal Government and the States for the conservation and recovery of endangered wildlife, and the bill provides increased protection for endangered plants from vandals and unscrupulous collectors. In addition, the legislation would strengthen penalties for international violations of the Endangered Species Act and give the U.S. Fish and Wildlife Service enforcement authority concurrent with the Animal and Plant Health Inspection Service of the Department of Agriculture in the importation and exportation of protected plants. Cooperative enforcement may improve investigation and prosecution of illegal trade in protected plants.

Mr. President, I am very glad that we have this bill before the Senate today. It was reported from the Environment and Public Works Committee in the last session of this Congress and the House has completed action on a companion measure. That measure passed the House by a overwhelming margin and there is wide support for this bill in the Senate, with 42 cosponsors. The Endangered Species Act is one of the country's important environmental laws.

I know there are a number of amendments, and I hope we will be able to work through any printed or unprinted amendments in an expeditious manner and bring this important piece of legislation to a final vote in the Senate.

I urge my colleagues to support this very worthwhile and necessary piece of legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, at this time it is my intention to offer three amendments that I believe are noncontroversial and cleared on both sides and to move them en bloc after they are described, provided there is no objection to that procedure.

AMENDMENT NO. 2651

Mr. President, the first amendment I offer in behalf of the committee. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 2651.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, at the start of line 21, insert "(b)".

On page 3, after line 20, insert the following new subsection:

(a) Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended to read as follows:

"The term 'person' means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

On page 9, line 11, strike ", without further appropriation,".

Mr. MITCHELL. Mr. President, these amendments to S. 675 by the committee address two issues.

The first change to the bill adds a new subsection to clarify the meaning of the act's definition of the term "person" in response to a decision this past March by the U.S. Court of Appeals for the Ninth Circuit.

The question before that court was whether the city of Ranchos Palos Verdes, CA, is a "person" under the Endangered Species Act.

The city had been charged with the misdemeanor of unlawful taking of an endangered species, the Palos Verdes Blue Butterfly, in violation of the act.

The district court, in looking at the language of the act, concluded that construing the term "person" to include municipal corporations rendered the language logically inconsistent. The court, therefore, concluded that the city was not a "person" as defined in the act and granted the city's motion to dismiss.

The court of appeals affirmed this decision, finding that "the legislative history does not give any clear indication that municipal corporations were either included in or excluded from the definition of 'person'."

The appellate court noted that "[i]f Congress intended a different construction, the statute is easily amended."

With or without the amendment, enforcement is not precluded because a municipal corporation can only act through its officers, employees, agents and instrumentalities, all of whom the court concluded are clearly subject to prosecution under the act.

But, Mr. President, I believe that there is no question that Congress did intend a different construction, one that would treat municipal corporations and similar entities as persons subject to the requirements of the act.

The amendment I am offering amends the definition of the term "person" to clarify that such entities are to be treated as persons under the act.

Mr. President, the second issue addressed by the amendment is one that has been discussed and agreed to by the leadership of the Committee on Environment and Public Works and the Committee on Appropriations.

Under that agreement, the amendment would make grants to the States from the cooperative endangered species conservation fund established by section 5(b) of the bill subject to the annual appropriations process.

As approved by the Environment and Public Works Committee, section 5(b) of S. 675 amends section 6 of the Endangered Species Act by adding a new subsection that establishes a cooperative endangered species conservation fund from which moneys are made available annually from the general revenues of the Treasury to the States without further appropriation. The amount of general revenues deposited annually in the fund are to be equal to 5 percent of the total Pittman-Robertson and Wallop-Breaux Federal aid accounts for State programs to restore wildlife and sport fish.

The funding level of these Federal aid programs serves only as a means of determining the amount of general revenues to be deposited in the fund. The cooperative endangered species conservation fund established by the bill does not consist of any revenues credited to the other Federal aid programs for sport fish and wildlife, nor is it intended that the bill's provision affect the funding levels of these other programs in any manner.

As I have stated, to address the concerns of the administration and the Appropriations Committee, I have offered this amendment to retain the endangered species conservation fund but to make any funds made available from it subject to the annual appropriations process.

I and other members of the Environment and Public Works Committee remain convinced that reliable and adequate matching funding for the section 6 cooperative Federal/State program is essential to implementation of the Endangered Species Act. Other laws, such as the Federal Aid in Wildlife Restoration Act, Federal Aid in Sport Fish Restoration Act, and the Migratory Bird Conservation Fund Act provide such matching funding for grants to States for game and sport fish management and for Federal wetlands acquisition. Section 5(b) of S. 675 would have provided a similar base of support of conservation and recovery of endangered and threatened species.

Adequate and reliable funding for endangered species grants to States is justified on two grounds.

First, through the cooperative agreement provisions of section 6 of the Endangered Species Act, the Congress recognized that State officials bear much of the responsibility for managing federally protected species. The valuable personnel and expertise of the State fish and wildlife agencies always have been an integral part of our endangered species program. For instance, while the U.S. Fish and Wildlife Service has fewer than 200 law enforcement officers and only a few hundred biologists, the States have over 5,000 such officers and several thousand wildlife biologists. Moreover, because the habitat of most protected species is on State-owned or private land, there is a clear need for a strong Federal/State partnership.

Second, recovery of threatened and endangered species has proven to be a very long-term process. For many species such efforts have been underway for a decade or longer and recovery still is not in sight. Interruptions in funding may have irreversible adverse consequences for a species' recovery. Therefore, recovery efforts require stable, predictable and sufficient funding to the States.

To date, the annual congressional appropriations process has not been able to provide that type of support for the cooperative endeavors of Federal and State endangered species programs.

Section 6 funding has been inadequate and the amount provided per cooperative agreement has declined significantly over the past several years. In 1977 a section 6 funding level of $3.9 million provided about $185,000 for each of the 21 cooperative agreements in effect. For fiscal year 1987 the appropriation of $4.3 million provided only about $49,000 for each of 87 agreements in effect.

Section 6 funding also has been unreliable over the past 7 years. The combination of administration requests to provide no section 6 funding and to rescind funding already provided, along with the uncertainty of congressional appropriation levels, has made it very difficult for the States have reduced their request for section 6 grants and curtailed their endangered species activities because of their uncertainty about whether and how much funding would be available. Some States, such as Ohio, have eliminated their requests for section 6 grants because the time and resources required to put together the requests have not resulted in adequate and reliable enough funding to make it worthwhile.

I know that the distinguished majority leader and chairman of the Appropriations Subcommittee on Interior and Related Agencies shares my view of the importance of a successful cooperative program for the conservation and recovery of endangered species.

I also understand his strongly held position that we should retain the current process of appropriations. And I appreciate his cooperation in resolving this matter.

It is my hope, therefore, that we can provide the necessary certainty and level of support for the section 6 program to achieve the goals we share without the guaranteed funding mechanism established by section 5(b) of the bill.

The amendment that I have offered would allow the Committee on Appropriations to do that.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the Subcommittee on Environmental Protection for his cooperation in amending the bill to make the release of Federal matching funds to the States subject to annual appropriations.

He is correct that I share completely his commitment to the conservation and recovery of endangered and threatened species. And I recognize, as he does, that the best means of achieving that goal is through effective implementation of the 87 cooperative Federal/State agreements in effect under section 6 of the Endangered Species Act.

Finally, let me say that I appreciate fully the importance of adequate and reliable funding in carrying out these agreements and in achieving the goals of the act. The repeated efforts by the administration to rescind funds appropriated for the section 6 program have not been sound, and they have been rejected consistently by the Appropriations Committee and the Congress.

I will be happy to work with the Senator from Maine and other members of our respective committees toward increasing the support made available under section 6 of the Endangered Species Act and assuring that the funding is provided on a reliable basis from year to year.

Mr. MITCHELL. I thank the majority leader and Appropriations Subcommittee chairman for his support and cooperation and look forward to working with him to improving support for cooperative Federal/State endeavors to protect and restore endangered and threatened species.

AMENDMENT NO. 2652

Mr. President, the second amendment in this group I offer in behalf of Senator BURDICK, the chairman of the full Environment Committee. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. BURDICK (for himself and Mr. SYMMS) proposes an amendment numbered 2652.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . EDUCATION, STUDY, AND REPORT.

(a) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the element of any such program and requirements to be effective on or after September 15, 1988, based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

(b) The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural foods and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

(c) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit an interim report on September 15, 1988, and a final report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

Mr. MITCHELL. Mr. President, the amendment concerns the proposal last year by the EPA to protect endangered and threatened species by restricting pesticide use in portions of 910 counties across the country.

The amendment will encourage the EPA to devise a program to protect endangered and threatened species from pesticides with minimum disruption to production of agricultural commodities.

First, it requires the EPA to conduct an educational program with the Departments of the Interior and Agriculture.

Second, the EPA is required to provide the public with adequate notice of, and opportunity for comment on, any proposed program to restrict pesticide use.

Third, the EPA is directed to conduct a study with the Departments of the Interior and Agriculture to identify alternatives which would protect species from pesticides and which would minimize any adverse effect on agriculture.

The amendment does not mandate a delay in the EPA efforts.

Instead, it will strengthen the EPA efforts with greater outside input and by encouraging more flexibility in protecting endangered and threatened species from pesticides.

● Mr. BURDICK. Mr. President, this amendment to S. 675 addresses a potential conflict between the protection of endangered and threatened species and the production of agricultural commodities.

The amendment concerns the proposal last year by the Environmental Protection Agency to protect these species by restricting pesticide use in 910 counties across the country.

The EPA's endangered species labeling project was meant to ensure that Federal approval of pesticides complies with the requirements of the Endangered Species Act.

The EPA tried to go forward with this project without adequate public participation and without sufficient coordination with other Federal and State agencies.

As a result, last year in the continuing resolution for fiscal year 1988, the Congress prohibited the EPA from implementing any program until September 15 of this year.

It should be possible to devise an effort that will protect endangered species with minimum disruption to agriculture, and my amendment will encourage such an outcome.

Mr. President, the purpose of my amendment is to make sure that any EPA program to protect endangered and threatened species from pesticides does not repeat the mistakes of the past.

The amendment will not delay further the implementation of this project or any other program developed by the EPA to protect endangered or threatened species from pesticides.

Instead, my amendment will take advantage of the time we have between now and September 15 to make sure that when the EPA does go forward it will do so in a sound manner.

That means proceeding not only in a way that complies with the Endangered Species Act but also in a way that maximizes acceptance of the program, and therefore voluntary compliance with it.

The amendment would do this by first requiring the EPA to conduct an educational program in cooperation with the Departments of the Interior and Agriculture.

Second, the EPA would be required to provide the public with adequate notice of, and opportunity for comment on, the essential elements of any proposed program to restrict pesticide use.

I believe these requirements are essential, prior to implementation of any program, to ensure knowledge, understanding and compliance within the user community.

Third, the EPA is directed to conduct a study jointly with the Department of Agriculture and the Department of the Interior to examine various alternative approaches.

Alternatives are to be identified which would protect endangered or threatened species from pesticides and which would minimize any adverse effect on the production of food and fiber.

The EPA is to find the best methods of developing any maps, and to consider alternatives to mapping, in order to identify those circumstances in which use of pesticides may be restricted.

Additional review will be given to alternative pesticides and application methods and to other agricultural practices which can be used in place of any pesticides whose use must be restricted.

The study encourages the EPA to find means of both conserving species and minimizing impacts to the farmers, ranchers, and foresters who earn their living from food and fiber production.

An interim report on the study must be submitted to Congress by September 15, 1988, to coincide with the end of the delay in EPA's endangered species pesticide labeling project.

A final report on the study must be submitted to the Congress within 1 year of the date of the enactment of this act to permit inclusion of the results in the program implemented by the EPA.

I stress again that my amendment to S. 675 in no way mandates a delay in the EPA's efforts to ensure that its registration of pesticides complies with the Endangered Species Act.

Its intent is to strengthen any EPA program with greater outside input and to encourage more flexibility in protecting endangered and threatened species from pesticides.●

AMENDMENT NO. 2653

(Purpose: Amends subsection 10(f) of the act to permit for an additional 5 years the continued sale of scrimshaw which is covered by a valid certificate of exemption issued pursuant to the Endangered Species Act)

Mr. MITCHELL. Mr. President, I now offer the third of this block of three amendments. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, this is in behalf of Senator EVANS and Senator ADAMS.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. EVANS (for himself and Mr. ADAMS), proposes an amendment numbered 2653.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A)) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a 6-month period begining on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.".

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(B)) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(E) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by striking paragraph (9).

Mr. MITCHELL. Mr. President, the amendment would extend certificates of exemption for existing licenses, which have recently expired, for scrimshaw production.

The House-passed endangered species legislation contains a similar provision.

The amendment extends the exemption for 16 certificate holders who, prior to enactment of the Endangered Species Act on December 28, 1973, had obtained legally an inventory of whale ivory or scrimshaw products.

The exemptions provided by the amendment do not establish rights to import additonal whale products.

Mr. EVANS. Mr. President, this amendment would extend certificates of exemption for existing licenses, which have recently expired, for scrimshaw production.

Currently, there is a provision in the House-passed endangered species reauthorization legislation, H.R. 1467, that would extend existing certificates of exemption, thus permitting the continued sale of scrimshaw products and unworked whale ivory by certificate holders for an additional 5 years. In 1976, the act was amended to allow persons who held scrimshaw or whale ivory before December 28, 1973, to obtain a certificate of exemption to sell their stocks. No other persons may sell in interstate or foreign commerce finished scrimshaw products as defined in the act. The program has since been extended, and the number of certificate holders is currently 16, 4 of which are located in Washington State. These 16 certificates recently expired on March 31, 1988, and large inventories still remain. There is no means for disposal of old stock if these certificates are not renewed.

The expiration of these certificates has forced those businesses in my State involved in scrimshaw production to layoff employees. These businesses have cooperatively and willingly abided by the current law regarding the commerce of scrimshaw products. The problem of the expired certificates could be readily solved by amending S. 675, the Endangered Species Act reauthorization legislation. An extension amendment was included as a part of the House-passed endangered species reauthorization legislation.

It is critical that it be understood that we are supporting an extension of what, before the March 31, 1988, expiration was the status quo for those persons who, prior to the act, had legally obtained an inventory of scrimshaw products. The exemption sought here does not pertain to the right to import additional whale products but rather to an inability to dispose of legally acquired inventory. A 5-year extension simply reflects Congress' intention that these businesses, which were originally given extra time in which to dispose of their inventory, would be given an additional period for that same purpose.

This particular program has been extended twice before. However, while the number of certificate holders has dropped from approximately 60 to 15, large stocks from existing certificate holders still remain. When the last extension was granted, the National Marine Fisheries Service [NMFS] established a computerized inventory system for items covered by certificates of exemption. This system enables NMFS to identify accurately each of the several thousand items in the certificates of exemption system and to track the sale of the items in interstate and foreign commerce. This system has not only eliminated many enforcement concerns, but also assures constant and accurate depletion of inventories. It is my understanding that this program is effective and I am aware of no problems with regard to enforcement of illegally obtained inventories.

I urge my colleagues to join me in allowing prompt passage of this amendment and S. 675, the Endangered Species Act amendments. This endeavor will allow many artisans in my State who specialize in scrimshaw production to their craft, and importantly S. 675 will strengthen one of our Nation's most important and powerful environmental laws—the Endangered Species Act of 1973. We, in Washington State, have a special appreciation for our fragile environment and the wildlife that inhabit it. I am pleased to see that the Senate has recognized the value in moving this worthy piece of legislation.

Mr. ADAMS. Mr. President, I rise in support of this amendment which would allow current scrimshaw dealers to continue production for 5 additional years. While this may seem a minor issue to some, it is a major concern to the 40 workers in my State affected by the recent expiration of their production licenses.

"Scrimshaw" is carved or engraved whale ivory. For centuries whalers have created works of art from whale bone and teeth as a hobby in their

spare time. Because of our growing concern for the preservation of whales, however, this ancient activity is rapidly disappearing along with the whaling industry. In 1973, when the original Endangered Species Act was passed, there were 60 businesses in the United States engaged in the manufacture and sale of scrimshaw products. In recognition that these businesses possessed substantial stocks of bone and teeth materials obtained prior to the act's passage, scrimshaw was allowed temporary exemption from its provisions for a period thought sufficient to allow these products to be sold. The act also provided for the renewal of exemptions by application to the Secretary of Interior.

Since 1973, the number of scrimshaw dealers has dropped to 16 in the United States, four of which are in Washington State and which employ about 40 people. While the reserves of preexisting whale bone and teeth supplies are diminishing, a significant supply continues to exist, requiring an additional extension of the most recent certificate of exemption.

This amendment is noncontroversial, as it pertains only to preexisting supplies of scrimshaw. It provides an automatic 6-month renewal effective upon passage of S. 675 for holders of certificates on March 31, 1988. It would allow these holders to apply for one additional renewal of their exemption for a 5-year period. This extension should allow them sufficient time to fully deplete their remaining inventory while adjusting business practices to reflect the future lack of scrimshaw.

The last certificates of exemption expired on March 31, 1988. Since that date, scrimshaw dealers have been unable to sell their products in interstate commerce, which constitutes the majority of their business. As a result, employees have been laid off and hardships suffered. I urge my colleagues to provide them with some necessary relief by supporting this amendment and granting the Endangerd Species Reauthorization Act a swift passage.

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not——

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I wonder if the Senator from Maine would yield for a question with respect to the question on EPA action on herbicides and pesticides?

Mr. MITCHELL. Certainly.

Mr. McCLURE. I have not seen the amendment but I think I understand what it is intended to do and that has to do with the construction of the maps and establishment of boundaries of the areas within which the restrictions would apply; am I correct?

Mr. MITCHELL. Yes, indeed. You are correct.

Mr. McCLURE. Mr. President, again I have not seen the language in the amendment. I have discussed it with Senator SYMMS from Idaho, my junior colleague, because we had two problems in Idaho to which I think this is addressed. And I want to describe one of the situations and ask the distinguished Senator if, indeed, this would solve that kind of a problem.

I think sometimes people forget that the casual application of a statute, that is the—sometimes some people would say unthinking application of a statute has an unintended consequence and I think this was one such case.

I think this was one such case. My State of Idaho, of course, has large areas of Federal lands, but one county, the largest county in the State, which happens also to be Idaho County, extends from the Oregon-Washington border on the west side of Idaho and the Montana border on the east side of Idaho. It is a county larger than the States of Delaware or Rhode Island.

That county, which the west half is largely individual property, includes an indian reservation, but it is not Federal lands in the sense of Forest Service or BLM lands. The eastern half is Forest Service land.

Out in the eastern part of that massive county, they found a plant that has been identified as an endangered species—McFarlane's 4 o'clock. I think it was found on somewhere between 8 and 12 acres of land.

In the designation of the restriction of herbicides and pesticides, they designated the entire county, and I remind my colleagues again that the entire county is larger than the State of Rhode Island. They designated that massive area for protection to ensure the protection of this plant on somewhere between 8 and 12 acres of ground.

I think anyone would say that is ridiculous. I do not think anybody would really logically contend that the scope of the problem was meant by the scope of the restriction. If I understand correctly, the amendment being offered would deal with that question of how you restrict the geographical area or designate the geographical area so that there is a reasonable relationship between the action and the threat to an endangered or threatened species; am I correct?

Mr. MITCHELL. Yes, the Senator is correct. While the amendment does not specify that county or that circumstance, it does direct the Departments of the Interior and Agriculture to identify alternatives which would protect species from pesticides and which would minimize any adverse effect on agriculture. In my view, hearing the description as provided by the Senator, that is the kind of thing that this would be directed toward.

Mr. McCLURE. I thank the Senator.

Further reserving my right to object and further directing a question to the distinguished manager of the bill, in the southeastern corner of the State on the Utah-Wyoming-Idaho border, there is a lake that is bisected by the State line, Bear Lake, and there is a wildlife refuge at Bear Lake, which is a very important species specific almost with respect to the whooping crane, the sandhill crane and other water fowl in the marshy lands at the northern end of that lake.

There was some concern that since the whooping crane occasionally passes by that way that it might be necessary to restrict the herbicides and pesticides that have agricultural application in that county. That, of course, was not confined to the wildlife refuge because those birds do not know where the wildlife refuge boundary is. They sometimes land and feed on farmland.

The original registration was a proposal for the registration of the entire county, and many in that area thought that that was a larger area than was necessary to be specifically directed toward the species that is within the wildlife refuge.

Again, I want to say the whooping crane, of course, is one of the most threatened of the species in the United States. The California condor, among our birds, is probably more threatened. Probably even the piping plover. I do not want to derogate the piping plover.

The fact it is occasionally there, not typically or even always or even annually, but occasionally sighted there among the population of sandhill cranes seems to many people in the area to be an unnecessary extension of the restriction to a situation in which an endangered species was not that intimately involved.

I understand this amendment which is being offered now would give the Secretaries of the Departments the opportunity to apply some flexibility to the questions of the kind that are raised in the application registration of pesticides and herbicides.

Mr. MITCHELL. The Senator is correct. I am unable, of course, to comment specifically on the example he cites. I do not know what is meant by "occasionally," and I would not want my answer to be construed as a directive in this particular case. But the circumstances he described are those which are of the type considered by the authors of this amendment in preparing it to give some flexibility and to direct the Secretaries to take the steps necessary to preserve the species, but to do so in a manner that minimizes the disruptive effect upon agriculture and the use of pesticides.

Mr. McCLURE. I thank the Senator. I will belabor this discussion only a moment longer with respect to what I mean by "occasionally." They are not even sighted there every year. It is only now and then through a period of a decade that they will have seen a whooping crane at that location. Because of that infrequent occurrence, the application is probably justifiably less stringent than it would be if they were constantly there or typically there.

Mr. MITCHELL. That certainly would be a relevant factor to be considered.

Mr. McCLURE. I thank the Senator for yielding, and I have no objection.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we have no objections either to proceeding en bloc or to the individual measures. The three amendments have been considered by this side.

The PRESIDING OFFICER. Is there objection? If there is no objection, all three committee amendments will be considered en bloc.

The question is on agreeing to the amendments en bloc.

The amendments numbered 2651, 2652, and 2653, were agreed to en bloc.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2654

(Purpose: To resolve the controversy over sea turtle protection and shrimp fishing and to assist the Secretary of Commerce in making recommendations and in carrying out his duties under law, including the Endangered Species Act)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] for himself, Mr. MITCHELL, Mr. BREAUX, Mr. COCHRAN, Mr. GRAMM, Mr. JOHNSTON, Mr. SHELBY, and Mr. STENNIS propose an amendment numbered 2654.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 10, between lines 18 and 19, insert:

SEC. 8. SEA TURTLE CONSERVATION.

(a) The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly.

(b)(1) IN GENERAL.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles.

(2) PURPOSES OF REVIEW.—The purposes of such independent review are—

(i) to futher long-term conservation of each of the relevant species of sea turtles which occur in the waters of the U.S.;

(ii) to further knowledge of activities performed in the waters and on the shores of the U.S., Mexico and other nations of the world which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which affect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this act and law.

(3) SCOPE OF REVIEW.—The terms and outlines of such independent review shall be determined by a panel to be appointed by the President of the National Academy of Sciences, except that such review, shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of U.S. geographic zones, of each of the relevant species sea turtles;

(iii) the distribution and concentration of of each of the relevant species of sea turtles, in the waters of the U.S., Mexico and other nations of the world, during both the migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shore of the U.S., Mexico and other nations of the world, for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures; and

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the U.S., Mexico and other nations of the world and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) COMPLETION AND SUBMISSION OF REVIEW.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete expeditiously as possible the remaining work of the independent review.

(5) REVIEW OF STATUS.—After receipt of any portion the independent review from the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) RECOMMENDATIONS OF SECRETARY.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations:

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowing of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts in behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures impose upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the rele-

vant species of sea turtles and shrimp fishing and other activities in the waters of the U.S., Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agencies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) MODIFICATION OF REGULATIONS.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) SECRETARY AND EDUCATIONAL EFFORTS.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fishermen in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

(9) SEA TURTLE COORDINATOR.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) PURPOSE OF SECTION 8.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) DEFINITIONS.—For the purpose of this section, the terms:

(i) 'relevant species of sea turtles' means the Kemp's ridley sea turtle, U.S. breeding populations of the loggerhead, the leatherback, and the green sea turtle, other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii), 'status' means whether a given species of turtle is endangered, threatened or recovered;

(iii) 'size' means the size of a given species of sea turtle; and

(iv) 'age and sex structure' shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

Mr. HEFLIN. Mr. President, this amendment embodies a compromise aimed at resolving the controversy over sea turtle protection and shrimp fishing. The purpose of the amendment is to assist the Secretary of Commerce in making recommendations and in carrying out his duties under law, including the Endangered Species Act, and under this act which is under consideration.

The amendment has been developed with Senator MITCHELL, the chairman of the Subcommittee on Environmental Protection, and I understand that it is acceptable to him and the rest of the leadership of the Committee on Environment and Public Works.

Subsection (a) of the amendment postpones the regulations of the Secretary of Commerce requiring shrimp fishermen to use "turtle excluder devices" until May 1, 1990, in the case of inshore waters, and until May 1, 1989, in the case of offshore waters. The delay in the inshore waters was included in the House-passed bill; the delay in the offshore waters is a provision not found in the House bill.

In addition, subsection (b) directs the Secretary of Commerce to contract with the National Academy of Sciences to carry out an independent review of scientific information pertaining to the conservation of the Kemp's ridley sea turtle, U.S. breeding populations of the loggerhead, the leatherback, and the green sea turtle, and other significant breeding populations of the loggerhead, the leatherback and the green sea turtle.

The independent review required by subsection (b) is intended to further the long-term conservation of sea turtles; to provide information on the relative impact of activities in the waters and on the shores of the United States, Mexico, and other nations that adversely affect sea turtles; to identify appropriate reproductive and other measures that will contribute to the conservation and recovery of sea turtles; and in particular to assist in determining whether the measures in the regulations promulgated by the Secretary in June 1987 to reduce the drowning of sea turtles in shrimp nets are either more, or less, stringent than is necessary and advisable to provide for the conservation of such turtles, and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations.

The review required by this subsection is to be carried out by individuals chosen by the National Academy of Sciences on the basis of their scientific expertise and special knowledge of sea turtles and activities that may adversely affect sea turtles. The individuals carrying out the review are to be respected individuals of independent judgment and are not to be employees of the Federal Government or any State government.

The committee intends that those carrying out the review will examine all available studies, reports, and other information. In addition, during the course of the review, an opportunity is to be provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel conducting the review.

The terms and outlines of the review are to be determined by a special panel appointed by the President of the National Academy of Sciences, except that the legislation requires that those terms and outlines include a consideration of certain information, including the status, size and age structure and, where possible, sex structure of affected sea turtle populations; the causes, magnitude, and significance of mortality to sea turtles in the waters and on the shores of the United States, Mexico, and other nations; the magnitude and significance of head-start or other programs to increase production and population size of sea turtles; and the sea turtle conservation measures, enforcement of such measures, and success of such measures taken by Mexico and other nations.

The review called for by this subsection is to be completed and submitted by the Secretary, together with any recommendations with regard to existing or new sea turtle conservation measures, to the Senate and House of Representatives no later than April 1, 1989.

After receipt of the independent review conducted by the National Academy of Sciences panel, the Secretary is required to review the status of each species of sea turtle covered by the amendment.

Before making recommendations, the Secretary is required to consider specific information and matters, including the requirements of existing law; the reports from the panel conducting the independent review; any written views and information of interested parties; the review of the status of each sea turtle species; the relationship of any more or less stringent measures to reduce the drowning of sea turtles in shrimp nets to the overall conservation plan for each turtle species; whether increased reproductive or other efforts in behalf of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets; and whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures imposed upon them in order to reduce the drowning of sea turtles in shrimp nets.

The Secretary may, for good cause, modify the regulations promulgated on June 19, 1987, relating to sea turtle conservation, in whole or in part, as the Secretary deems advisable.

Finally, the Secretary is required to conduct a program to educate and instruct shrimp fishermen in the usage of turtle exclude devices or any other devices that might be imposed on shrimp fishermen, and the Secretary is required to designate an individual to coordinate the conservation and recovery of sea turtles.

Mr. MITCHELL. Mr. President, the distinguished senior Senator from Alabama is correct that this amendment is acceptable to me and the committee.

Over the past several months I have worked with the Senator in his effort to develop legislation that will help us resolve the controversy between sea turtle protection and shrimp fishing.

A major purpose of the legislation developed by my colleague from Alabama is to improve our scientific knowledge of sea turtles and to identify measures that can be taken by the United States, Mexico, and other nations of the world to further the long-term conservation of Kemp's ridley sea turtles, and other species of sea turtles that occur in our waters.

The Senator's willingness to undertake difficult and time-consuming discussions has led to the development of legislation that has found broad acceptance. As a result, we will be better able to protect sea turtles and the Congress will be able to renew and refine the Endangered Species Act for the first time since 1982. He deserves our thanks for those very significant accomplishments.

Mr. SHELBY. Mr. President, I rise today in support of an amendment to the Endangered Species Act proposed by the distinguished senior Senator from my home State of Alabama. Generally, the amendment would delay the implementation of the turtle excluder device [TED] regulations for 2 years in inshore waters and 1 year in offshore waters pending further study.

Many of you may recall that in March of this year, I initiated a letter to C. William Verity, the Secretary of the Department of Commerce, which contained similar language to that of this amendment. The letter, signed by seven other gulf coast Senators, urged that the TED regulations be held in abeyance until additional studies could be performed in order to find another means to preserve the dwindling sea turtle population without destroying the shrimp industry.

As I said in March, there is insufficient evidence to indicate that the use of TED's will significantly affect the survival rate of sea turtles. It appears that the National Marine Fisheries Service has taken what can be viewed as a somewhat overzealous approach in its effort to protect the endangered turtles. There simply is no conclusive evidence, presently, that shrimpers are to blame for the dwindling sea turtle population. Conversely, there is ample evidence that TED's pose a hazard in rough weather and unnecessarily weigh and drag shrimpers' nets.

Until we know more about the impact of other factors on sea turtles such as the robbing of turtle nests for eggs, the illegal capture of turtles for human consumption, the changing climatic conditions, and the pollution of marine waters, I am strongly opposed to any regulations. The shrimp industry is being treated unfairly in being asked to risk economic ruin while others are not required to do similarly. The burden of saving the sea turtles should be shared equally. It is my understanding that no quantitative studies have been completed to estimate the relative contributions to total turtle mortality from different impacts. Yet small family businesses are being asked to endure an enormous hardship which may be unnecessary.

The shrimp industry generates about 10 million pounds of shrimp annually with a dock value of about $20 million. Shrimpers say that TED's would reduce their catch by one-third. The initial cost of TED's to the shrimp industry during the first year is estimated at $4.6 to $8.13 million. By 1990, the cost is expected to be $7.85 to $15.7 million. The enormous cost of TED's is obvious. There are not many businesses that can cut their revenues by one-third, increase their costs, and still survive.

At a time when so many American jobs have been lost because of import injury, we should be working to create jobs rather than destroying them. I believe that we can work together to find a suitable alternative to the turtle excluder device—an alternative that will protect sea turtles—and yet not overburden the vital shrimp industry.

Mr. CHAFEE. Mr. President, this is a compromise that is acceptable to this side.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2654) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I wish to thank Bob Davison of the committee staff for his work in helping draft the amendment that we have just adopted, and to thank Elizabeth Gardner of my staff. A great deal of time has gone into this matter. I believe we have come up with a good approach toward this very controversial issue on the gulf shore of Alabama. Cosponsors of this amendment in addition to Senator MITCHELL are Senator SHELBY, Senator GRAMM of Texas, Senator COCHRAN of Mississippi, Senator STENNIS of Mississippi, Senator BREAUX of Louisiana, and Senator JOHNSTON of Louisiana.

Mr. MITCHELL. Mr. President, I again thank Senator HEFLIN for his constructive work in helping reach a compromise on what was a difficult issue.

Mr. President, that completes all of the amendments that have been cleared on both sides. I understand that the Senator from Idaho has a statement at this time, so I will yield the floor so that he may make that statement. I will meet with the manager on the Republican side to see if we can review the amendments now being proposed by the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Maine. I do appreciate the fact that the staffs and managers are consulting with respect to a couple of amendments I hope they will find acceptable.

Mr. President, it has been 15 years since the Congress passed the Endangered Species Act. A lot has happened since then. Depending on your perspective, some of it has been good and some not so good.

Idaho, like many Western States, is largely owned by the Federal Government. Almost 65 percent of my entire State, some 35 million acres are controlled by Washington. Many of my colleagues will never fully understand how that affects Idaho workers, families, communities, and the State in general.

I would like for each of you to consider what it would be like for each of you to have to give up control of two-thirds of the land in your own State. Which two-thirds would you choose? Worse yet, what if the Government decided for you?

How would you go about selecting which segment of your population would be allowed to remain on lands settled by their families perhaps hundreds of years ago and which would be required to relocate?

And how would you choose which of your industries and communities would be dismantled "for the good of the Nation"? How would you expain to working mothers and fathers that they would no longer have a job to support their families because the Government knew best how to allocate uses of the land? And how would you explain to the children of those working parents that there would be few gifts under the Christmas tree this year because every penny available had to be used just to keep food on the table and to prevent foreclosure on their mortgaged home?

But, as an elected official, the most difficult explanation of all would be to explain to your neighbors and friends how people thousands of miles away with little or no knowledge about their community or traditions or way of life, people who have nothing personal to lose in the outcome of the decision could have more voice in the process than they themselves.

Those of us in the West are placed in such a position almost every day because of what goes on here in this Chamber. Decisions that adversely affect my constituents are easy for some Members of this body. They are

easy because you and your constituency have nothing at stake in the matter that affects your day-to-day lives. In fact, in most cases you probably gain political stature at home but believe me my friends, those decisions are hurting a lot of men, women, and families in States like Idaho.

Those of us who have served our constituencies for a substantial length of time have learned to cope with the realities of such actions. But that is not the case with the ordinary, hard working folks back home in Bonners Ferry and St. Maries, and Orofino, and across the State to Bear Lake.

They will never understand why they cannot be left alone to live their lives and raise their families in peace. They will never understand why animals and birds and plants have become more important than their right to the pursuit of happiness, their reasonable expectation of being able to make a decent living, and their need to feed, shelter, and clothe their families.

The population of States such as Idaho are limited because people cannot settle down and live just anywhere. That 35 million acres is off limits. They settle in one of the small rural communities where agriculture or a sawmill or a mine provides a few good paying jobs. Or perhaps they settle in one of the few of our communities large enough to be considered a city that has grown up along a railroad or highway. The entire population of my State is less than a million people, not many more than show up on The Mall for our Fourth of July celebration in Washington, DC.

I only wish some of my colleagues could walk in the shoes of my constituents. If you could, you would soon learn that they are much like your own constituents.

So why are they treated like second-class citizens? Because there are individuals and organizations in this country who are more concerned about birds and plants and animals than people. While I respect their right to that opinion, I disagree with it. On my list of priorities, the men, women, and children of this Nation come first, not the grizzly bear or the piping plover or the gray wolf.

And while I agree we should do what we can to protect and maintain all life, when it comes down to making a decision between a man or woman being able to feed their family or saving a tree or a bear, I am going to support the human being.

Mr. President, I have two amendments I eventually intend to offer today. Both are aimed to strengthen the act—and I underscore "strengthen the act"—by making additional information available to those of us with responsibility for making certain it is being properly applied and managed.

The goals of the Endangerd Species Act were and still are noble. In a nutshell, it was created to secure the right to life for animals, plants, and fish in imminent danger of disappearing forever. In my opinion, that noble goal has been badly distorted by self-serving organizations and individuals whose agendas are often substantially less noble than those envisioned by the Congress when they passed the act.

Let me cite a couple of examples. First if the case of the snail darter at the proposed Tellico Dam site. It may be argued that at the time, some sincerely thought the fish to be threatened. But the fish was only the "surrogate" as environmental attorneys are now calling them. There were also questions raised about the loss of prime farmland if the dam were constructed as well as questions about the economics of the entire project.

Let me make it clear, Mr. President, that those were all legitimate issues and it was proper for conservationists to raise them. What I question is whether it is appropriate to use the Endangered Species Act to accomplish objectives for which it was never intended.

The ESA was never intended to be a farmland protection act or a water projects economics act. If the Congress had thought it necessary to pass a law to cover those issues, there is no doubt in my mind it would have done so. The question of whether or not the dam should have been built should have centered around those issues instead of on the Endangered Species Act.

As you know, once we got around to looking for them, we found snail darters in a number of other places. In a nutshell, that is the problem.

Let me make it clear that I do not intend to accuse all conservation organizations of misuse of the act, but there are enough of them playing that game that it needs to be noted publicly. If they would have just taken the time to look for darters in other places before crying wolf—excuse the pun—it would have saved everyone, including the taxpayers of this Nation millions of dollars and all that wasted effort we could have been using constructively.

It is my perspective that many contemporary conservation organizations need an issue in order to raise money. I do not fault them for that. What I do find fault with is the use of misleading, incomplete or dishonest information and tactics meant to deceive this body and the American people in the name of fundraising.

Their strategy is simply to find a means of creating polarization between individuals, businesses, and interest groups, and then capitalizing on the situation by soliciting what are usually tax deductible donations for their "worthy cause."

Let me cite a more current example for you. Controversy is raging over the spotted owl in Washington, Oregon, and California. The reason I use this issue as an example is that, perhaps for the first time, we have hard evidence of an attempt at deception by environmental attorneys to deceive both the general public and the Congress.

I am sure many of my colleagues and their staffs have been besieged over the past year or two by lobbyists for environmental organizations wanting to discuss the absolute necessity of preserving old-growth forests in the Pacific coast States. The reason they have given you for their demand is the preservation of the spotted owl.

Before I get too far into this issue, let me say that I believe, at least as far as this issue is concerned, that both the U.S. Forest and the U.S. Fish & Wildlife Service have acted about as responsibly as could be reasonably expected under the circumstances. While I do not necessarily agree with all the conclusions they appear to be reaching, I cannot say I am too surprised at the outcome.

As usual, a number of conservation groups requested endangered species listing for the spotted owl immediately just as they had with the snail darter. To the credit of the Forest Service and Fish and Wildlife, both decided that more information was needed in order to determine whether or not the owl really warranted listing.

And guess what? The more they looked, the more owls they found. Surprising? Not really. The conservation groups had done a good job at setting the stage for their newest assault. Through use of the media and congressional supporters, they had managed to convince many people to accept as fact two basic premises. First, that there were hardly any owls remaining, and second, that the owl's habitat was exclusively old-growth forests.

By linking the two questions, the conservationists succeeded in shifting the focus of the issue away from the spotted owl itself and onto the issue of old-growth preservation which was their real agenda all along. The sad part of it is, that they have become so adept at deception that a lot of people swallowed their line without question.

Meanwhile, back in the forests of the great Northwest, researchers and biologists were finding a lot of owls. Not only that, but lo and behold, they even found owls nesting and breeding in second growth forests. While no one argues with the fact that current evidence indicates the owl does need access to some old growth forest, it does not appear to be nearly as critical as prophesied by conservationists.

Now, let me turn to the transcript of the Sixth Annual Western Public In-

terest Law Conference held at the University of Oregon in Eugene on March 5, 1988.

It has been no secret that conservation organizations have been using the University of Oregon, which, I might add, is a State owned and supported university, as a base for researching and filing appeals and litigation against the Forest Service for several years.

I am going to quote directly from the transcript of that meeting so that my colleagues will be able to hear, word for word, the strategy to deceive and misguide both the public and Congress and to misuse the Endangered Species Act. This is a prime illustration of why we need to make some changes in the way the act is administered.

The speaker I am quoting is Mr. Andy Stahl, a resource analyst for the Sierra Club in Seattle, WA. He began his presentation with the following:

I'm going to talk about litigation strategies to delay Federal timber sales on Bureau of Land Management and Forest Service land which log old-growth forests.

Here's the problem facing a litigator entrusted in delaying a Federal old-growth timber sale: There is simply no specific statutory protection for old-growth forests.

He goes on to say:

* * * the ultimate goal of litigation is to delay the harvest of old-growth forests so as to give Congress a chance to provide specific statutory protection for those forests.

Until legislation is adopted which protects these forests, we need at least one surrogate, if you will, that will provide protection for the forests. A surrogate must have three qualities to be a good surrogate. First, it must be unique to old-growth forests; secondly, it must be measurable using scientific methods; and third, it must, of course, enjoy some amount of statutory protection.

Mr. Stahl continues:

Well, as the strategy for protecting old-growth matured, it appeared that wildlife would offer the most fruitful hunting grounds for a surrogate that meets the three criteria. It's quite biologically sensible to hypothesize that one or more species of wildlife would, in fact, be unique to old-growth forests * * *. In addition, wildlife are measurable; you can count them. And thanks to the work of Walt Disney with Bambi and her friends—I think she was female—wildlife enjoys substantial substantive statutory protection.

Well, the northern spotted owl is the wildlife species of choice to act as a surrogate for old-growth protection and I've often thought that thank goodness the spotted owl evolved in the Northwest, for if it hadn't, we'd have to genetically engineer it. First of all, it is unqiue to old-growth forests and there's no credible scientific dispute on that fact. Second of all, it uses a lot of old-growth. That's convenient because we can use it to protect a lot of old-growth. And third, and this is more a stroke of good fortune in one sense * * * it appears that the spotted owl faces an imminent risk of extinction.

The speaker goes on to say:

Well, there are four statutes that are being used to delay the harvest of old-growth forests. The first, and to date the most important of these has, of course, been NEPA. We have used NEPA to compel the agencies to admit that the spotted owl might go extinct.

He then cites the fact that the National Wildlife Federation and three other organizations filed an appeal against the Forest Service in 1984. As a result of that appeal:

* * * the Assistant Secretary of Agriculture instructed the Forest Service to prepare an EIS on the spotted owl. Very important, because the—at the same time, conservation biologists were coming up with the mathematical models necessary to predict the chance the owl would go extinct. And the Forest Service hired some of those biologists and sure enough, the draft spotted owl EIS predicts that the owl will go extinct within the next hundred years.

Mr. Stahl continues by laying out how, through the use of NEPA and litigation, they obtained a so-called admission that the owl "might" go extinct. Not that it would, only that it might.

To quote again:

About two dozen conservation groups, relying partly on the admissions in the Forest Service draft spotted owl EIS, filed a petition with the Fish and Wildlife Service to have the owl listed as a threatened and endangered species. That petition was denied, not surprisingly * * *. So what's being done is taking the admissions of one Federal agency and using them against another.

Finally, I believe Mr. Stahl does a credible job of summarizing the contempt that some conservationists harbor for the ESA, NEPA, et cetera, when he stated that:

The most important part of these cases is not the law—the law is actually fairly clear or relatively clear in all these statutes—but the facts that go into making the cases.

In my opinion, when these individuals and organizations grow so bold and sure of themselves they feel they can openly and publicly flaunt the misuse of laws such as the ESA, there has to be a message for the Congress in there somewhere. After all, we are the ones who passed those laws in the first place.

The two amendments I intend to offer today will be helpful in achieving two main goals. First, they will provide additional, important information that, in my opinion, is necessary in making sound decisions about the recovery of listed species. We have the responsibility to see that the taxpayers of this country are getting their moneys worth from this program. They have a right to know how their dollars are being spent.

Second, my amendments will provide a means of assuring communities, local government, and States directly affected by recovery efforts that their concerns are being considered in the overall process.

My first amendment will require a comprehensive economic analysis of costs associated with new recovery plans as well as with revisions to existing plans. Despite the fact that many argue that economics has nothing to do with recovery of a species listed under the ESA, I would argue that just the opposite is true.

Every recovery action that occurs, including preparation of recovery plans, has both direct and indirect costs. Who pays those costs? Ultimately, it is the American taxpayer, and in my opinion, that taxpayer has the right to know how and where his hard earned dollars are being spent.

The reaction by many in the conservation community to my amendment will be that I am attempting to weaken the act. Nothing could be further from the truth. They will also argue that the sole criteria for listing should be biological in nature. Let me make it clear that I agree with that. However, there are those in the conservation community who evidently do not, as evidenced by the snail darter fiasco and the revelations about the real agenda behind the spotted owl controversy.

However, I believe that the team put together to draft a recovery plan is probably also the best forum for examining the economics of the plan.

In States like Idaho, there are always at least three agencies involved in the listing and management of threatened or endangered species. The first is the Fish and Wildlife Service who have the responsibility of carrying out and enforcing the ESA.

The second agency involved is the land management agency such as the Forest Service or BLM. These agencies are responsible for cooperating with the F&WS by protecting habitat identified as necessary for recovery.

And finally, State fish and game departments usually are responsible for handling and control of the critters themselves.

In some cases, the intermingling of Federal and State responsibilities are in conflict. An example is the current Wyoming law that classifies the wolf as a predator.

Conservationists—and the Fish and Wildlife Service—take the position that recovery plans are simply biological opinions about what must be done to save a species from extinction. They argue that it is not an action plan and therefore, is not subject to NEPA.

However, that same group is also quick to demand implementation of a recovery plan by the appropriate land management agency the minute it is approved. By doing so, it is suddenly transformed into an action plan but the Fish and Wildlife Service no longer has to deal with it. Instead, the Forest Service, BLM, TVA, or other similar agency is forced to take the heat while the conservationists and agency responsible for the whole mess just sit back and watch.

It is my perception that while we spend millions each year on threatened and endangered species programs through numerous agencies, a good portion of that is being directed at relatively few species. As in the case of the spotted owl, we also spend millions studying species that probably shouldn't be on the list in the first place while those that really need help get no notice at all.

The question I lay before you is, other than the fact that the Congress passed a law mandating protection of listed species, what can we actually accomplish by listing that we could not by channeling more funds directly into conservation programs?

At the time we passed the ESA, it was absolutely essential because we needed to slow down and take a good look at the problem. However, I do not believe that is currently the case. There are few of us today who fail to recognize that we cannot allow the extirpation of a species if other options are available. In most cases, there are other options.

However, we must put a halt to flagrant misuse of the act. By doing so, I believe that Senators and Representatives from public land States would become more receptive to cooperating with attempts to recover species in trouble than we tend to be currently.

Let me cite another specific example. The fight over reintroduction of the mountain caribou raged on for a number of years in Idaho. This was a case where a population, not an entire species was listed. There are thousands of caribou in Canada and Alaska. A reintroduction program in the Selkirk Mountains of northern Idaho could have been accomplished much sooner, at a fraction of the cost to the taxpayers, and without creating polarization and fears in affected local communities had the caribou not been listed in the first place.

In fact, the local people would have supported a reintroduction with no limitations on the number of animals to be transplanted had they not been on the list. Once again, the problem was the threat to the economic base of the communities involved and the people responded as one would expect—they opposed the reintroduction of the caribou and the fight was on.

The polarization created became a fund raising issue for conservation groups and the caribou became the trojan horse or surrogate as in the case of the spotted owl. Introduction of the animals was a means to an end, and the end was halting timber sales and other commodity uses of public lands.

I believe we should do a better job of investigating whether or not an animal or bird or plant is actually in immediate danger of extinction before we proceed with listing.

The argument that any delay in listing will necessarily mean the disappearance of the species forever is pure and simple rhetoric. Just look at the thousands of plants and animals already on the list and it does not take long to realize that the biggest delay of all is probably caused by the rush to list after a cursory and sometimes biased and subjective examination of whether or not a problem actually exists.

The caribou is a good example. Despite statements to the contrary, there was no herd in Idaho that was threatened with extinction. There was a herd just north of the international border in British Columbia and two or three individual animals from that herd wandered into the United States periodically.

We should have simply recognized the fact that there used to be a herd in the area, and then sat down and worked out a reintroduction program. The time and money we would have saved could have been directed at some species buried far down the list of priorities that really needed the protection and help the ESA was intended to provide. The reason it does not work that way is because many such critters and plants simply do not appeal to the public like the caribou. Thus, they are not good surrogates and fundraisers for conservation organizations so they are largely overlooked since time and funds are obviously limited.

When the Congress passed the ESA, the intentions were good. But, I do not believe we ever envisioned a program so abused as the one we have today. I want to start correcting those oversights so we can concentrate on rebuilding a cost-effective effort.

We will never be able to do that unless we slow down the rush to list when it is not necessary. We also must begin to ask more questions about where available funds are spent and begin concentrating on those species in greatest danger of extinction.

Mr. President, my understanding from staff is that there have been discussions about the two amendments which I would offer. Rather than go ahead and offer them, perhaps it would be constructive at this point to have a brief quorum call and determine whether or not there is a possible meeting of the minds with respect to these issues.

I therefore suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ADAMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, we have been engaged in a discussion about specific amendments which I am prepared to offer, and various suggestions have been made by staff as to changes that might lead to an acceptance of the amendments by the managers.

I do not want to overstate that because I think it would be fair to state that the managers see more problems than promises in the amendments. However, I think it is obvious that there are others who are waiting to speak, and rather than hold the Senate up to deny them access to the floor and the opportunity to speak, it would be my intention to yield the floor without speaking further with respect to the amendments. While others are speaking—and if I understand correctly, it is the intention of the majority leader to take us off this bill at the hour of 2 o'clock—between now and the time that we return to the consideration of this bill I will continue to work with the distinguished managers and their staffs to see if, indeed, there is something we can do to work out an acceptable resolution of what I think is a very serious problem but in a way which the managers do not find raises a greater problem from their perspective.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, Senator CHAFEE and I look forward to further discussions with Senator McCLURE. In the interim I understand that Senator SYMMS wishes to address the subject of the legislation, and I will yield the floor.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, I would like to encourage my senior colleague not to withdraw what I consider to be some very important amendments. I do not think anyone in the Senate is trying to say that protecting unique life forms and safeguarding singular genetic codes that distinguish one species from another, preventing them from disappearing from the planet is not a worthy pursuit.

The problem for those of us who come from "Government-owned" States—I repeat, "Government-owned" States; 64 percent of all land in the State of Idaho is owned by the Federal Government—is that when broad reaching regulations are issued in the name of protecting a species it can raise havoc with the lives of the people who have to try to earn a living. I think Senator McCLURE has brought up an issue which needs to be aired in full in this Senate, and I would like to see people come to the well and make a decision. Are they going to vote for the benefit of the working men and women in the country or are we going to be rigid and unwilling to broaden aspects of this law

enough that common sense can be applied. Let me give you an example—Owyhee County is probably larger than two or three of our States in the Union. Most of it is owned by the Federal Government. I had the opportunity one night to be at a meeting at Rimrock High School in Bruneau, with several people from the Fish and Wildlife Service, some of whom had flown in from Portland, OR, others from Boise, all of whom had higher incomes than the ranchers that attended the same meeting. The issue was whether or not the Bruneau snail was going to be declared an endangered specie. Fortunately, through the hard work of some of us, and particularly I would say my senior colleague, with his position on the Appropriations Committee, we have reached somewhat of an agreement that this snail should not be classified as an endangered specie.

It is pretty hard to tell the working men and women of America that the Bruneau snail in a stream of a little more than a few acre feet of water is somehow more important on this planet than the lives of the people who live in the area. That is really the issue. Had it not been for the act's rigid language, endangered species protection in a generic sense would have a lot more popular support from the public than it has today. We have problems with wolves, with bears, with spotted owls, the Bruneau snail, and the McFarlane's 4 o'clock weed. You can just go on and on with these examples.

And I know when this came up on the floor of the House—I had first been elected to the House back in 1972, was sworn in in 1973, and this was one of the first bills that came up. I feared at the time when it passed the House—I was not on the committee that brought the bill up—that we were going to be out there trying to protect certain life forms, whether they really were endangered or not, at the expense of the homosapien. I voted against it when it came up before the House. Later, it finally reached passage. There was very little opposition to the bill, and the conference was worked out with the Senate. It passed, I think—I do not recall, but it may have been a unanimous passage when the conference report passed.

When I voted against the bill, I made it clear that I was not against the noble cause of the people who were pushing the Endangered Species Act—and I do not impugn the motives of any of my colleagues who are enthused about this. It would be extremely shortsighted for humankind to assume that the diversity of the world in which we live can be destroyed or diminished without having negative repercussions on our own lives and on our own existence.

A broad array, Mr. President, of plant and animal species yields many benefits. New benefits in treatments for disease are often derived from unique or exotic plants. Those who work in agriculture have seen the practical application of biological diversity over and over again. So we are not opposed to that. Hardier, more disease-resistant crops are made possible because of the preservation of diverse genetic traits in plant species. Genetic diversity yields a similar benefit to animal husbandry. Our Nation's livestock industry vitally needs improvements if it is going to remain competitive. We do this in every aspect of modern American agriculture to try to improve plant genetics, animal genetics, tree fruit genetics, to improve the qualities of the products that we are producing.

But now that we have fully recognized the wisdom of protecting endangered and threatened species, I want to express some of my reservations about the amendments before the Senate, and the statute which it amends.

To begin with, a respect for diversity of life is more of a question of morals than it is of politics. All of the fines, jail sentences and penalties of the Endangered Species Act will never take the place of a moral belief in the sanctity of life. I think my colleagues will find that many of the people whose lives are affected by this, the ranchers, the loggers, the producers of natural resource wealth in this country are some of the Nation's best conservationists. They believe in using and replenishing the resources that we were blessed with in this continent and on this Earth. At the same time, an attitude of wanton disregard for life will result in the extinction regardless of how tough or how heavy-handed law enforcement is. Besides, this Nation is not and hopefully never will be the kind of police state where such attitudes can be changed by the sheer brute force of Government.

True, Mr. President; the rate of extinction has decreased since the passage of the Endangered Species Act but in my opinion so has the Neanderthal tendency to kill regardless of the consequences. Americans today are better educated. We manage our game species carefully so as not to overhunt them. We have a heightened awareness of the critical role that nongame species play in the natural ecosystems, and in my opinion, this advance in common understanding can take more credit for the improvement in species protection than can this act which has cost this country enormous amounts of money in terms of the tie-up of the development of water projects, the tie up of timber plans, grazing, all kinds of things that relate directly to the lives of the people—the people, I repeat—of the United States of America.

In fact, Mr. President, the economic burdens placed upon communities by the Endangered Species Act has done more harm to species protection than to help it. Under the act's broad authorities, the Fish and Wildlife Service has time and time again usurped local authority and overridden good sense in the name of protecting genetic diversity. If you talk to them, and I do not fault those people, they are going by what the law says.

What some of us are saying is that it is time we take a long, hard look at this bill with serious intent to make it less technical, less restrictive, if you will, and supply a large, broad dose of common sense. That is what my senior colleague is trying to do.

The fact is that the local authorities and farmers, ranchers, loggers, and miners who bear the brunt of endangered species regulations often have a greater moral conscience when it comes to the sanctity of life than the faceless bureaucracy that oppresses them.

The problems that face this Nation are more often solved by consensus than by conflict. Yet, the Endangered Species Act has resulted in more conflict than almost any other statute enacted by Congress. The rigid implementation of its regulation often conflicts violently with the views of reasonably common-sensed individuals. For example, I mentioned earlier the Owyhee County snail. The cattlemen in Owyhee County cannot be accused of lacking a respect for life merely because they object to regulations which jeopardize the water supply for their cattle. Their cattle must have water to be productive, and to stay alive. That is the only way the cattlemen in Owyhee County have found they can survive. They must keep their herds in good health so they can replenish the numbers of cattle that they sell each year so they can raise their families.

In this case, regulation has been suggested in the name of protecting less than one square foot of habitat that may or may not be essential to what may or may not be a unique species of snail.

Fortunately, and I praise the leadership of the Fish and Wildlife Service, they have decided that listing the snail under the Endangered Species Act may not be the best way of protecting it. I compliment Mr. Dunkle for that.

The Endangered Species Act is especially objectionable in its treatment of predatory animals. More flexibility is needed when managing predatory wildlife since the question of what promotes true diversity is less clear.

For example, when Yellowstone National Park was formed wildlife managers worked very hard to eradicate

the gray wolf as a means of protecting deer and elk. That decision was not made out of wanton disregard for animal life but, to the contrary, in an effort to improve the species which they deemed to be more important and valuable to the park, deer, and elk.

What happened was, in retrospect, that decision could possibly have been shortsighted. But now that the decision is made the Yellowstone ecosystem has adapted to a food chain which excludes the wolf. Who is to say we would not be just as shortsighted by reintroducing the wolf now? That is what we are doing. We are reintroducing the wolf, and clearly the food chain has to make more room for the wolves. It must either make more room for the wolves and less room for other predators, or it will overconsume the available prey for the predators, in this case the elk and the deer. In either case, it is not a moral question as to the value of preserving wolves, but merely a question of which species should be promoted.

I see my senior colleague on the floor. He will recall our late, great friend who was a forest supervisor at the Boise National Forest, the late Bill Gurnsey, who used to accuse—and I have seen him do it—some of the district rangers of finding a dead German shepherd and then calling it a wolf. Then pretty soon we would have a study going on whether we have wolves in a certain area of the forest, and create a huge enormous layer of bureaucracy that the people who were trying to make a living have to deal with. It is very costly, Mr. President. It is very costly to this country in terms of the energy of our people to have them diverted with, in many cases, needless paperwork. The production of new wealth and more happiness for our people is tied up in studying whether to introduce a wolf in some forest ranger district. In other words, when I say that, I am talking about preventing a logger from cutting down an old slowed-down, no longer growing tree that is fully mature and can be made into a house for people. In so doing, we prevent people from enjoying the benefits of a low-priced available, affordable home to live in, even though new trees can be planted that will grow at a rate of 10 times faster than the old tree.

This problem is further complicated by the extension of the Endangered Species Act to habitat. Severe land use constraints are created by the act in the name of protecting land that may, or may not, be necessary to the survival of an endangered species. These land use constraints can cause tremendous economic disruption—depriving timber dependent communities of much needed forest resources, denying ranchers and sheepmen much needed rangeland, and even denying access to public land for sportsmen and other recreationalists.

Again, Mr. President, remember that public attitudes toward wildlife are much more important to the long-term survival of endangered species than Government regulation could ever hope to be. In view of this, the economic disruption and community instability caused by the Endangered Species Act should be seen in its true light, as a detriment to real wildlife protection, and not vice versa.

It would be a great error for Congress to assume that once it has spoken on an issue, its answer should stand as permanent and definitive. While wanton disregard for the diversity of life is morally wrong, Congress's initial response, the Endangered Species Act, has done more to foster such wrong attitudes than to correct them. I would urge the Senate to open its eyes to the flaws in this act, and to use the debate on reauthorization as a means of correcting them.

Mr. President, I believe that the series of amendments that my senior colleague has brought before this body should be debated fully. They should be voted on by Members of the Senate. If we do not get it done this year, maybe we will next year or the year after. We must go back and change the extreme impact this legislation has on the commonsensed people of the United States, allowing them to live together in peace and freedom with some consensus as to what Government's role should be.

Senators can say that those from the West do not understand the problem because the East has been overdeveloped. I think the point is that the people who are living on the land, whether it be Rhode Island or Washington State or Alaska or Idaho, have a better appreciation, in many cases, and a better understanding of protecting those species that are endangered than the bureaucracy along the banks of the Potomac.

Mr. FOWLER. Mr. President, I am pleased that we have an opportunity today to discuss a modest extension of the Endangered Species Act, one of the landmark statutes of Federal environmental protection efforts.

Since my colleagues on the Environmental Committee reported out this bill last December, Senators have widely discussed this bill's impact on wildlife and people alike. We have debated the question: What level of Government involvement is appropriate to preserve our wildlife heritage for future generations? Some of us have differed over the methods to this end, but our goals have remained the same—an unquestioning commitment to the conservation of species whose survival is threatened or endangered by human actions.

In recent years, our scientists have recorded the signs that we are putting extreme stress on our environment: The ozone hole over the South Pole seems to have grown; our summers seem to be getting hotter; our basic climate patterns seem to be changing.

These stresses, together with great increases in human population—and the attendant pollution and destruction of natural habitat—is leading to a crisis of global proportions for wildlife. Scientists estimate that 2,000 species of reptiles, birds, and mammals are now headed for extinction, that 70 percent of the bird species in the Amazon will be lost by the end of this century. Clearly, this is no time to balk at protecting endangered species in our own country.

There are a number of ways of looking at this issue.

We can look at it as a moral responsibility. Our mandate for stewardship is spelled out in the opening chapters of Genesis. We inherited a natural world that, with all its diversity, its hundreds of thousands of plant and animal species, maintains a very fine and intricate balance. This balance developed over millenia. We threaten to upset and in some cases eradicate it in a matter of decades.

We can also look at it as a matter of self-interest, to preserve and study the diversity of life. We never know which species may prove a future source of food, or may provide an enzyme that cures disease—or even a message in its DNA that holds the key to other scientific mysteries. That is what we risk losing with each species that falls into the black hole of extinction at our hands.

How does the death of the last dusky seaside sparrow affect us? What will result from the declining numbers of sea turtles? How do we measure the loss of the California condor from the wild? No one knows for certain.

How many species can we lose to extinction before we feel our world diminished? It would be hard to find a scientist who could tell us for sure. But common sense tells us that we can't go on losing species at the current rate.

This bill renews our efforts to stem these losses. I hope that, thanks to the perseverance of my colleague from Maine and the cooperation of the senior Senator from my neighboring State of Alabama, we will be able to move forward with this legislation today. Because our rich wildlife heritage is also a source of common national pride, of our very national identity. There is no getting around it.

This bill puts into action our ongoing promise to our children and grandchildren that they will enjoy a natural world at least as wondrous and varied as our own. The authors of this legislation deserve our commendation. And I believe conscience requires us to support their efforts.

Although I do not anticipate any amendments that would strengthen this bill, I will support any that may be offered. I will also oppose any amendments—and I understand there may be a few—that would diminish our progress toward this goal, and I urge my colleagues, likewise, to oppose such amendments.

Mr. GRAHAM. Mr. President, I am pleased to be a cosponsor of S. 675, a bill to reauthorize the Endangered Species Act. At the same time I commend my distinguished colleague, Senator GEORGE MITCHELL, for all his hard work on behalf of this legislation. This reauthorization will help to ensure the preservation and protection of future generations of all species.

S. 675 contains increased civil and criminal penalties for violations of the act, requiring the Secretary to take into account damages and the necessary costs of recovery in assessing such penalties. Furthermore, the additional revenues from the increased penalties could be funnelled back to the Department of Interior for help in recovery of the damaged species.

The bill additionally improves the development and implementation of recovery plans for listed species and allows grants to States to assist in monitoring status of candidate species and recovered, delisted species. The 5-year authorization allows for increases each year to offset the projected annual rise in consumer price index.

In Florida, we understand the urgency of funding the research, recovery, and habitat restoration associated with endangered animals. We have tracked only 26 Florida panthers during 1987. Only 30 to 50 are left in the entire world—all in south Florida—all dependent for survival on Federal funding for recovery of the species through section 6 of the act.

The American crocodile now lives in only two small areas of extreme south Florida. Part of Everglades National Park and the Upper Keys. There are several hundred of them, but only 20 nesting females have been identified in the last few years.

The beach mouse, the everglades kite, and the whooping crane all have only a tenuous hold on survival. The cranes have actually vanished from Florida and the Florida Game and Fresh Water Fish Commission is experimenting with plans to reintroduce the birds into the area of the Kissimmee River.

Also at risk is a warm water mammal called the manatee. The threat to the manatee became so grave during the time when I was Governor of Florida that we formed the "Save the Manatee Commission" to expand State efforts to prevent the manatee's extinction.

These species represent only a sample of the numerous endangered animal and plant species deserving protection throughout the United States. Failure to reauthorize and provide continued funding under the Endangered Species Act could condemn these species—some sooner, some eventually—to extinction.

Human activities have limited the ability of these species to thrive. We have the responsibility to remedy that danger. This is exactly what the reauthorization of S. 645 seeks to accomplish.

I urge my colleagues to recognize that responsibility and to vote in favor of the endangered species reauthorization bill.

Thank you, Mr. President.

Mr. BAUCUS. Mr. President, I have long been a strong Endangered Species Act supporter, and I support this bill. But my home State of Montana has a number of concerns regarding this legislation, and I share those concerns. The people in this Nation are able to point pridefully to great wildlife populations thriving in the Rocky Mountains. Glacier and Yellowstone National Parks and the Bob Marshall Wilderness are magnificent testaments to our Nation's commitment to Montana's wild habitat. But a greater testament to Montana's wildlife commitment is Montana's people. Despite many gains that we derive from protecting wildlife and wildlife habitat in our State, we also pay a price. For some, like the sheep rancher living within a wolf's range, the cost can be unacceptably high. In our interest of establishing healthy wildlife populations and ecosystems for future generations, we must not forget the people in small towns scattered throughout a grizzly bear's range, nor the sheep farmer whose sheep become prey to the wolf. In light of this, I ask the chairman of the subcommittee, Senator MITCHELL, to maintain a continued commitment to work with me in resolving Montana's unique problems.

Mr. MITCHELL. Mr. President, I thank the Senator. I have worked long and hard with the Senator from Montana to respond to Montana's concerns. I appreciate the sensitivity and difficulty under which a State must operate in recovering threatened and endangered predators. I pledge my commitment to continue working with Senator BAUCUS to resolve Montana's unique problems where the Endangered Species Act is concerned, and I appreciate his support for this bill.

Mr. GORE. Mr. President, as an original cosponsor of S. 675, a bill to reauthorize the Endangered Species Act of 1973, and as a strong supporter for many years of this landmark legislation, I rise to urge my colleagues to support this bill, resist amendments that would weaken its goals, and pass it by an overwhelming margin. I congratulate my distinguished friend from Maine [Mr. MITCHELL] for his leadership on this issue, and for his commitment to the idea that Government has a positive role to play in wildlife protection efforts.

We can no longer attribute the increasing decline in our wild animals and plants to natural processes. Most of today's extinctions and endangerments have resulted from exploitation, habitat alteration or destruction, environmental pollution, or the introduction of species into areas where they are not native. Congress recognized the value of preserving disappearing fish, wildlife, and plants when it passed the Endangered Species Act in 1973. Since that time, this act has been properly regarded as the country's most important and powerful environmental law, and a model for the world.

Yet, as important as the Endangered Species Act has been, we are faced with inadequate funding and an erosion in Federal/State cooperative efforts to protect and recover those species threatened with extinction. Mr. President, in the last two decades, more than 300 kinds of plants and animals vanished from the United States while waiting for protection under the Endangered Species Act. Worldwide, experts say as many as 17,500 species are disappearing annually. Because of a huge backlog in processing candidate species for listing, thousands of fish, wildlife and plants are being lost every year.

A reauthorization bill is needed, certainly. But more than just a simple reauthorization is required—the Endangered Species Act needs to be strengthened. The legislation we are considering today goes a long way toward that goal. This bill is supported by every major environmental, conservation and animal welfare organization. It passed the other body by an overwhelming margin, and it was approved unanimously by the Committee on Environment and Public Works in November. There has been more than enough opportunity to study this legislation, and the time has come for its passage.

Mr. President, I want briefly to note some of the highlights of S. 675 as it came out of committee.

To limit importing and exporting protected plants, this bill gives the U.S. Fish and Wildlife Service enforcement authority concurrent with USDA's Animal and Plant Health Inspection Service. This cooperative enforcement should improve investigation and prosecution of illegal trade in protected plants.

The monitoring of candidate species has been a matter of concern for many years. This legislation establishes a system to increase monitoring of species awaiting listing as either listed or endangered. This should help prevent the decline or loss of species by encouraging timely steps for protection.

If necessary, existing procedures for emergency listing also may be used to prevent a significant risk to an endangered species.

In its requirements for recovery plans, S. 675 corrects an imbalance—an imbalance that has seen preferential treatment for the more visible higher life forms—birds, mammals and reptiles—often at the expense of preparing recovery plans for lower forms such as crustaceans and plants. Under this bill, resources for recovery actions must be allocated more evenly among those species listed as threatened or endangered. A more uniform allocation should help produce better results and more successful recoveries.

To ensure that successful recovery programs do not lapse, and to provide valuable information for ongoing recovery programs, this bill provides for the monitoring of recovered species for 5 years. In addition, grants are made available to States to assist in monitoring candidate species as well as recovered and delisted species.

It is already unlawful to remove any endangered plant from Federal property. This bill will make malicious damage or destruction illegal as well. In addition, Federal penalties and enforcement will be added to State provisions to assist in the effort to prevent the illegal removal, damage or destruction of endangered plants from private property by criminal trespassers.

Penalties and fines for intentional violations of the act are increased significantly, providing a greater deterrence and attacking a situation in which profits to be made from illegal activities can, and often do, outweigh the penalties.

Finally, increased appropriations are authorized through fiscal year 1992. The last authorization expired in 1985, and the funding that has been provided since that time has been inadequate. I am not convinced that what is being provided in S. 675 is enough, but I do know that these new authorized funding levels are a step in the right direction.

So, Mr. President, the bill we are considering today is desperately needed. It is good legislation, and it addresses the needs that have been detailed by the administrators of the Endangered Species Act and those organizations that have been closely associated with it. It is my understanding that some amendments may be proposed that will have the effect of weakening the bill. I intend to oppose such amendments, and I encourage my colleagues to do the same.

With passage of this legislation, we will reaffirm the commitment of the Senate to the effort to protect endangered animal and plant species. We will reassert environmental leadership for this country and for the world. The time has come for the reauthorization and strengthening of the Endangered Species Act, and I urge the adoption of this legislation.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 675, the reauthorization of the Endangered Species Act.

The Endangered Species Act is one of the primary pieces of legislation protecting our Nation's plant and wildlife resources. The act is critical to the protection of the biological diversity upon which human life depends. It reaffirms our concern for preserving our national heritage for future generations and exemplifies our environmental leadership to the Nation and the world.

Since its enactment in 1973 more than 400 U.S. species have been protected by this legislation. But much more remains to be done. Nearly 1,000 U.S. species have been identified as candidates that warrant listing and protection under the act because of their well-documented vulnerability to extinction. Yet only 50 species are added to the act's list every year. Each day species are pushed closer to the brink of extinction. The economic and environmental costs of this extinction are incalculable. The continued existence of these wildlife and plant species is dependent upon protection received pursuant to designation under the Endangered Species Act.

S. 675 contains a number of provisions which strengthen the Endangered Species Act. The bill authorizes increased appropriation of funds to carry out the Endangered Species Act. It requires the status of candidate species to be monitored, contains provisions to improve the development, implementation and review of recovery plans, and requires the monitoring of the status of species which have recovered. Of particular importance, the bill establishes a "cooperative endangered species conservation fund" to provide Federal funds to States for projects to conserve endangered species. Finally, the bill increases protection for plants and increases the maximum amounts of civil penalties and criminal fines for violations of the act.

In my State of New Jersey we are proud of our natural resources and we have worked hard to protect endangered and threatened plants, animals, and birds. Many areas in New Jersey, including the Pine Barrens, the Great Swamp National Wildlife Refuge and the Forsythe National Wildlife Refuge provide habitat for endangered and threatened species.

New Jersey has taken the lead in reestablishing the peregrine falcon population east of the Mississippi River. The species disappeared in New Jersey in the 1950's when DDT use became prevalent and by 1964, no breeding pairs were present east of the Mississippi River. New Jersey's restoration program has resulted in 15 breeding pairs, more than any other State in the region. One pair sits atop the Golden Nugget Casino in Atlantic City.

New Jersey also provides sanctuary to the bald eagle, our national symbol of freedom. Through a cooperative captive breeding program with the Fish and Wildlife Service, State wildlife specialists have been successful in an effort to incubate and raise fledglings which could not survive in the wild. Several eagles hatched in captivity have already been returned to their natural habitat.

Preservation of plants and wildlife is of paramount national and international importance. We must act to protect our endangered and threatened species, for our benefit and for the benefit of future generations. I urge my colleagues to support S. 675.

Mr. KASTEN. Mr. President, I rise today in support of S. 675, the Endangered Species Act of 1988.

At a time when hundreds of thousands of species are being exterminated by human negligence in the tropics, it is important to remember that we have endangered species in our own country as well—and that it is our duty to do all we can to preserve them.

We have already lost the passenger pigeon, who used to darken the skies over my home State of Wisconsin, as well as a full three-quarters of the native species of birds in Hawaii. Other species are still hanging on, but gradually losing hope of survival as their numbers dwindle.

Almost 500 species of American plants and wildlife are already on the endangered list—and 3,900 other species are moving in that direction.

To give these species the chance they deserve, it is essential that we pass S. 675. the Endangered Species Act would revitalize the listing process, so that truly endangered species would be recognized as such—and listed as endangered before it's too late to save them. The bill would also protect endangered species of plants found on private lands by prohibiting their theft, and of plants found on public lands by outlawing their deliberate destruction.

This bill would demonstrate the commitment of Congress to the task of preserving America's rich biological diversity. Everyone wants to preserve the large, showy animals on the endangered list—animals like the whooping crane. We need to show our willingness to protect the less glamourous but equally important species of plants and animals: the insects that pollinate our trees and shrubs, the bloodroot that helps cure our gum diseases, and the countless other living things that have medicinal applications for human beings.

The Endangered Species Act shows that we have the necessary commitment. It seeks to preserve endangered

species across the board—large and small, beautiful and less so.

I urge my colleagues to reauthorize and strengthen this Endangered Species Act, because it's the single most important wildlife conservation statute in the entire world.

The act recognizes that we and all the other species share this world, but that only we humans are endowed with the power and intellectual foresight to preserve it. We enjoy a great privilege, the gift of reason; it carries with it an equally great responsibility. I urge my colleagues to reflect seriously on the duty we have toward our fellow species, and toward ourselves—and I urge them to pass this bill.

Mr. WEICKER. Mr. President, I wish to express my strong support for S. 675, legislation to reauthorize and revise Endangered Species Act programs for fiscal years 1988-92.

Mr. President, we most often discuss the threats to the Earth's biodiversity in the context of the developing world and, in particular, the tropics and subtropics. And we do so with good reason, for that is where the great loss of life is occurring at an astonishing pace. But without in any way suggesting that we should do less on that front, I am convinced we must redouble our efforts to stop extinction here in the United States—be it that of the dusky seaside sparrow, which disappeared from our eastern shores last summer, or the Palo Verdes blue butterfly, which saw its last remaining habitat, a meadow south of Los Angeles, transformed into a baseball field a few years ago, or any of 1,000 other species teetering on the brink.

In the 20 years I've served in Congress, 300 unique forms of life have disappeared from our country. Their loss is much more than a matter of sentimental concern. Science and natural history have taught us that biodiversity is not a luxury for us as Americans any more than it is for the people of Brazil or Indonesia or Costa Rica. It is inextricably linked to human survival.

Unrestricted and unregulated beachfront development, the draining of wetlands, the denuding of timberlands, the conversion of prairies and meadows to farmland and suburban developments—all these are taking a toll on the livability of our national landscape. Animals and plants which are dependent on a particular habitat feel it first. But mankind is suffering the effects as well—and will do so to an even greater extent in the future unless safeguards are enacted and enforced now.

It was 15 years ago, Mr. President, that Congress first put teeth into Federal laws to protect animals and plants at risk of extinction by passing the Endangered Species Act. One thousand species are now listed as threatened or endangered under the act and recovery plans have been developed for just over half of them. I am pleased to note that recovery plans for the right whale, of which there are only a few hundred left, and the humpback whale, roughly 5,000 of which remain, will soon be finalized. But what of the 1,000 species awaiting listing as threatened or endangered and the 3,000 others that have been nominated for this status and which await further action?

The intent of the Endangered Species Act is not being lived up to, by the Interior Department's Fish and Wildlife Service or the Congress of the United States. For its part, the Congress allowed the authorization for programs under the act to expire in 1985 and has since allowed them to limp along on level funding. S. 675 would not only renew that authorization, setting appropriations at a level that would enable FWS to reduce the current backlog. It further sets new criteria for determining the content and timetables of recovery plans for species certified endangered or threatened and mandates better monitoring of species awaiting listing. It also creates an innovative new endangered species cooperative fund—itself funded through higher civil and criminal penalties assessed for violating the act—from which grant moneys would go to the States to keep track of recovered species and for other purposes.

Mr. President, this is good legislation addressing a problem which affects us all, Eastern and Western States alike. It is not an "us" versus "them" situation. Our fate and that of our fellow creatures is a common one. I urge my colleagues to support S. 675.

Mr. RIEGLE. Mr. President, I rise today to urge my colleagues to support S. 675, the reauthorization of the Endangered Species Act of 1973. For the past 15 years the Endangered Species Act has been an effective and flexible piece of legislation which protects wild plants and animals. I believe that the Endangered Species Act takes important steps toward environmental preservation. As a cosponsor of S. 675, I feel it is imperative to continue to improve and strengthen provisions of the act.

Since 1973, the Endangered Species Act has stood as a deterrent to the destruction of animal and plant species in jeopardy of extinction. The act was developed in response to the growing recognition that our Nation and the world were losing species to extinction at a rate far greater than at any time in history. The extinction of plants and animals could have a profound impact on the world's health, food supply, and scientific research. I am very concerned about these trends which, if continued, will mean that nearly 20 percent of the world's species will have become extinct by the year 2000.

In my own home State of Michigan, efforts have been made to protect the Kirtland's warbler from extinction. The Kirtland's warbler is a bird that nests only in one small area of the Lower Peninsula of Michigan. Lands have been set aside for Kirtland's warbler management in both States and national forests. I am pleased that this year, the U.S. Fish and Wildlife Service has begun important research using radio transmitters to help us understand what areas these special birds require so we can better manage their remaining habitat. It has been a long and difficult struggle for the survival of the Kirtland's warbler.

Recently, the House of Representative appropriated $530,000 in the Interior appropriations bill for 1,100 acres of critical habitat for the Kirtland's warbler in Michigan. I believe that these acquisitions are necessary to fight the threats to the warbler by impending subdivision and development and I am working hard to ensure that the conference committee on Interior maintains this same amount of funding. These purchases would permit the necessary habitat management required under this endangered species recovery effort.

Reauthorization of the Endangered Species Act will guarantee that the Kirtland's warbler—in addition to nearly a thousand other animal and plant species—are protected. S. 675 would gradually increase authorized appropriations from the current level of $39.2 million to $65 million over 5 years. The bill improves the present protection of species listed in the act and establishes a monitoring system for those species awaiting listing. The bill also provides for improved cooperation between the States and the Federal endangered species programs by upgrading the cooperative endangered species conservation fund to encourage States to become partners in the task of protecting and restoring endangered species.

I take this opportunity to call upon my colleagues to support S. 675. We must continue to protect those species which are close to extinction and ensure their preservation for future generations.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

The PRESIDING OFFICER (Mr. DIXON). Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to the consideration of H.R. 4783, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4783) making appropriations for the Departments of Labor, Health and

Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$72,289,000**]** *$71,638,000* together with not to exceed **[**$46,607,000**]** *$50,406,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, **[**$3,705,129,000**]** *$3,769,316,000,* plus reimbursements, to be available for obligation for the period July 1, 1989, through June 30, 1990, of which $59,713,000 shall be for carrying out section 401, **[**$70,572,000**]** *$68,172,000* shall be for carrying out section 402, **[**$9,966,000**]** *$9,633,000* shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, **[**$3,000,000**]** *$5,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, **[**and $7,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act:**]** *$12,000,000 shall be used to begin acquisition, rehabilitation, and construction of six new Job Corps centers and $2,500,000 shall be for programs serving American Samoans under the Job Training Partnership Act: Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

[For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $80,916,000, to be available for obligation for the period July 1, 1989 through June 30, 1992.**]**

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, **[**$50,000,000**]** *$47,870,000.*

[Of the funds provided under this heading in the Department of Labor Appropriations Act, 1988, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, not to exceed $30,000,000, may be expended as necessary, for center operations to maintain existing Job Corps centers and current enrollment levels. Such funds for center operations shall be available for obligation for the period July 1, 1988 through June 30, 1989. Such transfer shall in no way reduce the obligation of the Department of Labor to comply with the provisions of Public Law 100-202 for the rehabilitation and relocation of existing centers and the expeditious obligation of funds for the planning and construction of new centers.**]**

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, **[**$269,880,000**]** *$273,000,000.*

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, **[**$76,120,000**]** *$77,000,000.*

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $134,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,833,000, together with not to exceed **[**$2,472,714,000**]** *$2,484,890,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1989, and of which $21,733,000 together with not to exceed $751,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1989, through June 30, 1990, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $157,479,000 (including not to exceed $3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1989.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1990; $124,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $73,059,000, of which $5,000,000 for a pension plan data base shall remain available until September 30, 1990.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1989, for such Corporation: *Provided,* That not to exceed $41,232,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation: *Provided further, That (a) part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by redesignating section 414 (29 U.S.C. 1114) as section 415 and by inserting after section 413 (29 U.S.C. 1113) the following new section.*

"MORATORIUM ON EMPLOYER REVERSIONS UPON PLAN TERMINATION

"SEC. 414. (a) IN GENERAL.—In any case in which a notice of intent to terminate a defined benefit plan (other than a multiemployer plan) is filed on or after June 21, 1988—

"(1) subsections (a) and (b)(9) of section 408 shall not apply with respect to any transaction constituting a distribution to the employer in connection with such termination, and

"(2) each party in interest having any authority with respect to the management or disposition of the assets of the plan shall be jointly and severally liable for a breach of fiduciary duty under this part unless, in the final distribution of assets of the plan, any amount that would have been available for distribution to the employer under the terms of the plan (but for any amendments to the plan adopted in conformance with the requirements of this section) is distributed to participants or beneficiaries or paid into a trust established by the employer or plan administrator in accordance with subsection (b).

"(b) TRUST.—The employer or plan administrator shall designate the trustee of a trust established pursuant to subsection (a). The terms of the trust shall provide for final distribution of the assets held by the trust in accordance with such applicable law as may be in effect on the date of distribution from the trust pursuant to subsection (d) and shall otherwise be consistent with any terms of the plan providing for such trust and such regulations as the Secretary may prescribe.

"(c) EXCLUSIVE PURPOSES OF TRUST.—Any trust established pursuant to subsection (a) shall be used exclusively for—

"(1) receiving and holding any amount paid into the trust under this section,

"(2) defraying the reasonable administrative expenses incurred in carrying out the trusteeship under this section, and

"(3) making the final distribution from the trust under subsection (d).

Any income earned on the balance in such trust shall be paid into such trust.

"(d) END OF MORATORIUM.—Subject to applicable law as in effect on October 1, 1989—

"(1) subsection (a) shall not apply with respect to terminations pursuant to which no distribution of plan assets has commenced as of such date, and

"(2) during the 30-day period beginning on such date, any trust established pursuant to subsection (a) shall be dissolved and any balance (including income) in such trust at the time of its dissolution shall be distributed from the trust in accordance with the terms of the trust.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 414 and inserting the following new items:

"Sec. 414. Moratorium on employer reversions upon plan termination.
"Sec. 415. Effective dates.".

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $214,489,000 together with $526,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, [$292,000,000] *$255,000,000*, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1989.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, [$688,214,000] *$691,394,000*, of which $633,435,000 shall be available until September 30, 1990, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $30,210,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and [$24,054,000] *$27,234,000* for transfer to Departmental Management, Salaries and Expenses, and $515,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, [$246,517,000] *$246,851,000*, including not to exceed [$43,000,000] *$42,334,000*, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the

Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $164,597,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $190,397,000, of which $2,829,000 shall be for expenses of revising the Standard Industrial Classification, together with not to exceed $46,323,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $3,550,000 shall remain available until September 30, 1990.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,468,000 for the President's Committee on Employment of the Handicapped, [$117,339,000] *$118,839,000,* together with not to exceed $285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed [$148,887,000] *$160,006,000* may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, [$39,497,000] *$40,222,000,* together with not to exceed $5,701,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

[SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1990.]

SEC. [104] *103.* Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. [105] *104.* None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1989".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, *VIII, X,* XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1110 of the Social Security Act, *and title IV of the Health Care Quality Improvement Act of 1986, as amended,* [*$769,554,000*] *$1,642,685,000,* of which not to exceed [$800,000] *$1,000,000,* to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $500,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act [and of which $5,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients] *and of which $20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers: Provided,* That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: [*Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation:] *Provided further, That amounts received pursuant to these provisions of law in accordance with 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302 and shall remain available until expended: Provided further, That the provisions of section 741(i) of the Public Health Service Act shall also apply to schools participating in the Nursing Student Loan Program or lenders participating in the Health Education Assistance Loan Program: Provided further,* That during fiscal year 1989, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed $500,000.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $21,600,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out title III, *XVII, XIX,* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, mainte-

nance, and operation of aircraft, [$819,941,000] *$979,357,000,* of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training *of private persons* shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees[, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories,] may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $12,486,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey: *Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: Provided further, That the office building at the Centers for Disease Control (CDC) Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, referred to in the Centers for Disease Control—Disease Control, Research and Training Appropriation appearing in Title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH, AND TRAINING (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B).*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to cancer, [$1,489,897,000] *$1,591,036,000; of which at least $75,000,000 shall be available only for cancer prevention and control.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 *and title IV* of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$1,018,983,000] *$1,056,003,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to dental diseases, [$127,315,000] *$132,578,000.*

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$546,902,000] *$565,908,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL [AND COMMUNICATIVE] DISORDERS AND STROKE

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to neurological [and communicative] disorders and stroke, [$557,046,000] *$477,878,000.*

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorder, $96,100,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to allergy and infectious diseases, [$732,453,000] *$758,352,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to general medical sciences, [$623,087,000] *$690,653,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to child health and human development, [$407,650,000] *$431,388,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to eye diseases and visual disorders, [$228,235,000] *$234,218,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 *and title IV* of the Public Health Service Act with respect to environmental health sciences, [$216,985,000] *$223,168,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to aging, [$202,096,000] *$225,578,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$156,174,000] *$161,931,000.*

RESEARCH RESOURCES

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to research resources and general research support grants, [$355,767,000:] *$367,987,000, of which $10,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to nursing research, [$27,417,000] *$28,107,000.*

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, [$16,074,000] *$16,474,000,* of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute *for maintenance and operation of the Gorgas Memorial Laboratory.*

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 *and title IV* of the Public Health Service Act with respect to health information communications, [$64,836,000] *$70,626,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$71,578,000] *$65,578,000* including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further, That $6,000,000 of this amount be used to support an additional 200 full-time equivalent positions (FTEs) for a total level of no less than 13,102 FTEs to be distributed throughout the National Institutes of Health.*

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, [$20,000,000] *$12,500,000,* to remain available until expended *of which $2,500,000 shall be available only for the Frederick Cancer Research Facility.*

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, [$507,594,000] *and the Protection and Ad-*

vocacy for Mentally Ill Individuals Act of 1986, $1,583,191,000, of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797) and of which $200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $24,000,000 which shall be available in fiscal year 1989 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1989 and thereafter, the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out title III, *XVII, and XX* of the Public Health Service Act, [$67,144,000] *$69,903,000,* together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and [$3,950,000] *$7,500,000* to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which [$2,568,000] *$4,875,000* will come from the Federal Hospital Insurance Trust Fund and [$1,382,000] *$2,625,000* will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $10,155,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

VACCINE INJURY COMPENSATION TRUST FUND

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203, and from such trust fund such sums as may be necessary, not to exceed $80,000,000, for compensation of claims adjudicated by the United States Claims Court arising from liability related to the administration of vaccines before October 1, 1988[: *Provided,* That administrative expenses of the Department of Health and Human Services under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the Trust Fund.]

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, [$24,732,589,000] *$26,236,000,000* to remain available until expended.

For making, after May 31, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1989 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1988 and before October 1, 1989, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1990, $9,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $31,227,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, [$93,817,000] *$94,417,000,* together with not to exceed [$1,769,919,000] *$1,839,819,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds or any other trust fund which may be established by law for catastrophic coverage under the Medicare program: *Provided,* That [$212,400,000] *$100,000,000* of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates *of this Act*[, including the cost of administration of catastrophic health insurance if enacted into law], and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further, That for the purposes of conducting a pilot test of the Health Care Financing Administration's proposal for providing administrative law judge hearings to Medicare beneficiaries, a maximum of ten qualified persons who meet the requirements for administrative law judges appointed under 5 U.S.C. 3105 may be appointed at the GS-14 grade level to conduct hearings under titles XI and XVIII but such appointments shall terminate not later than March 31, 1990: Provided further,* That all funds derived in accordance with 31 U.S.C. 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, $93,631,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $628,581,000, to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1990, $211,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,473,953,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1990, $2,936,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than [$3,705,000,000] *$3,820,000,000*, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further, That notwithstanding any other provision of law, amounts appropriated by this Act for the Social Security Administration shall be used to maintain not less than 66,545 full-time equivalent positions.*

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), [$7,855,137,000] *$8,204,337,000*, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1990, [$2,644,000,000] *$2,700,000,000*, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, [$1,567,000,000] *$1,187,000,000.*

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $400,000,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and section 408 of Public Law 99-425, [$354,398,000] *$385,864,000* of which [$20,000,000] *$21,000,000* shall be for carrying out section 681(a)(2)(A), [$3,925,000] *$4,200,000* shall be for carrying out section 681(a)(2)(D), [$2,968,000] *$3,000,000* shall be for carrying out section 681(a)(2)(E), [$7,000,000] *$6,500,000* shall be for carrying out section 681(a)(2)(F), [$239,000 shall be for carrying out section 681(a)(3), $2,872,000] *$4,000,000* shall be for carrying out section 408 of Public Law 99-425 and [$2,394,000] *$2,500,000* shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, [$79,533,000] *$82,464,000.*

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, *the Runaway and Homeless Youth Act*, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), *title II of the Children's Justice and Assistance Act of 1986*, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, [$2,531,808,000] *$2,573,465,000.*

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, [$1,074,907,000] *$1,119,907,000.*

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$68,160,000] *$64,860,000*, together with not to exceed $7,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $46,430,000, together with not to exceed $40,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,173,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For expenses necessary for the Office for Civil Rights, $16,173,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, [$8,373,000] *$7,519,000*: *Provided*, That not less than [$3,500,000] *$2,500,000* shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director," may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 comn issioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents,

assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, *or except for such medical procedures necessary for the victims of rape or incest.*

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for each fiscal year for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1989, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided,* That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the services: *Provided further,* That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 213. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

SEC. 214. Funds made available for fiscal year 1989 and hereafter to the National Institutes of Health shall be available for payment of nurses and allied health professionals [at the rates of pay and with schedule options and benefits and other authorities authorized for similiar employees of the Veterans Administration pursuant to 38 U.S.C. 4107 and 4111] *using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73.*

SEC. 215. The National Institutes of Health is directed, without regard to 31 U.S.C. 3324 or 41 U.S.C. 5, to enter into a lease-purchase contract for construction on the NIH campus in Bethesda, Maryland, an office building of approximately 700,000 gross square feet, together with necessary underground and multi-level parking, and funds made available in this and subsequent fiscal years for operations of the National Institutes of Health shall be available to carry out the conditions of the lease-purchase contract.

SEC. 216. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $6,765,000 is to be applied to all appropriations as a result of improved procurement practices.

SEC. 217. NIH Building Numbered 31 is hereby named the Claude Denson Pepper Building.

SEC. 218. Funds appropriated by this Act may be used to pay physicians' comparability allowances as authorized under 5 U.S.C. 5948.

SEC. 219. Section 465(B) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 220. Notwithstanding any other provision of law, no personnel ceilings may be imposed nor any action may be taken to restrict the full-time equivalent (FTE) levels for Public Health Service programs, projects, and activities funded by this or any other Act.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1989".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, [$4,663,719,000] *$4,589,800,000,* of which a total of $8,000,000 [shall be available] for purposes of sections 1437 and 1463 and *$4,000,000 for subpart 3 of part F,* [*which*] shall become available on October 1, 1988 and remain available until September 30, 1989, and may be expended by the Secretary at any time during that period; and the remaining [$4,655,719,000] *$4,577,800,000* shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided,* That of these remaining funds, $3,900,000,000 shall be available for the purposes of section 1005, [$200,000,000] *$175,000,000* shall be available for the purposes of section 1006, [$30,000,000 shall be available for the purposes of section 1017(d), $25,000,000 shall be available for the purposes of part B, $269,029,000] *$275,000,000* shall be available for the purposes of subpart 1 of part D, [$151,269,000] *$150,000,000* shall be available for the purposes of subpart 2 of part D, [$32,616,000] *$32,000,000* shall be available for the purposes of subpart 3 of part D, [$42,050,000] *$41,000,000* shall be available for the purposes of section 1404, [and $5,755,000] *$4,800,000* shall be available for the purposes of section 1405*: Provided further, That the provisions of subparagraphs (C) and (D) of section 1006(a)(1) shall not apply to the amounts made available under this appropriation for section 1006.*

For carrying out section 418A of the Higher Education Act, [$8,900,000] *$8,776,000.*

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), [$715,000,000] *$714,036,000,* of which [$10,000,000, which shall remain available until expended, shall be for payments under section 7 of said Act,] $15,000,000 shall be for entitlements under section 2 of said Act, and [$690,000,000] *$699,036,000* shall be for entitlements under section 3 of said Act of which [$553,000,000] *$565,000,000* shall be for entitlements under section 3(a) of said Act.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $25,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $10,000,000 shall be for awards under section 10 of said Act, $12,000,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $3,000,000 shall be for awards under sections 5 and 14(c) of said Act.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, part A of title II, title III, part A, subpart 1 *and subpart 2* of part C, and part E of title IV, [sections 4601 and 4605,] *section 4604,* title V, and parts A and C of title VI of the Elementary and Secondary Education Act of 1965, as amended; section 722 of the Stewart B. McKinney Homeless Assistance Act; section 403 of the Civil Rights Act of 1964; subpart 2 of part C and

subpart 2 of part D of title V of the Higher Education Act, as amended; [part B of title III] *title IV* of Public Law 100-297; title IX of the Education for Economic Security Act; and the Follow Through Act, [$1,118,538,000] *$1,104,180,000: Provided,* That of the amounts provided, [$517,430,000] *$502,000,000* shall be for chapter 2 of title I of the Elementary and Secondary Education Act, of which [$489,500,000] *$473,700,000* for part A shall become available on July 1, 1989 and remain available until September 30, 1990 and [$27,930,000] *$28,300,000* for part B *including $1,000,000 for national school volunteer programs* shall become available on October 1, 1988: *Provided further,* That, [*$114,888,000*] *$130,000,000* for grants to States and Outlying Areas under part A of title II, [$3,000,000] *$2,500,000* for subpart 1 *and $1,000,000 for subpart 2* of part C of title IV, and $207,000,000 for grants to States and Outlying Areas under title V of the Elementary and Secondary Education Act, $4,358,000 for subpart 2 of part C of title V of the Higher Education Act, and [$4,787,000] *$5,000,000* for section 722 of the Stewart B. McKinney Homeless Assistance Act shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided further,* That, of the amounts provided, $115,000,000 shall be for title III, *$9,000,000 shall be for section 2012* and $1,500,000 shall be for section 6201(d) of the Elementary and Secondary Education Act.

Unobligated balances of funds appropriated for fiscal years 1985 and 1986 for title VI of the Education for Economic Security Act shall be available until September 30, 1989 for carrying out activities authorized by [section 4601] *part F of title IV of which not less than $1,000,000 shall be for activities authorized by section 4603* of the Elementary and Secondary Education Act.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act and part B of title III of the Refugee Act of 1980, [$201,782,000] *$197,009,000,* of which $112,106,000 shall be for part A, $10,903,000 shall be for part B, [$33,564,000] *$28,000,000* shall be for part C of title VII *of which no funds shall be used for activities authorized by section 7043* and $30,000,000 shall be for part D of title IV of the Elementary and Secondary Education Act.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, [$1,921,882,000] *$2,008,623,000,* of which [$1,478,539,000] *$1,508,200,000* for section 611, [$205,075,000] *$250,000,000* for section 619, and [$68,358,000] *$73,000,000* for section 685 shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That up to $479,000 may be used for section 621(d) of said Act.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, [$1,656,592,000] *$1,669,395,000,* of which [$1,441,577,000] *$1,450,000,000* shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, [and $16,590,000] *$17,200,000* shall be for special demonstration programs under sections 311 (a), (b), and (c), and [$5,000,000] *$4,800,000* shall be for the Helen Keller National Center.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act, and section 702 of the Stewart B. McKinney Homeless Assistance Act, [$1,091,966,000] *$1,076,130,000* which shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That [$25,658,000] *$26,800,000* shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which [$7,276,000] *$7,050,000* shall be for part A, including $5,744,000 for section 404, [$14,361,000] *$14,750,000* shall be for section 411 [and $431,000 shall be for section 415 of part B,] and [$3,590,000] *$5,000,000* shall be for part C of said title: *Provided further,* That [$7,851,000] *$8,000,000* shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That [$6,845,000] *$9,000,000* shall be made available to carry out title III-A and [$32,791,000] *$34,250,000* shall be made available for title III-B of said Vocational Education Act: *Provided further,* That [$3,734,000] *$3,900,000* shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That $2,000,000 provided herein for part D of the Adult Education Act shall be only for section 383 of said Act.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, [$5,907,736,000] *$5,837,095,000,* which shall remain available until September 30, 1990: *Provided,* That the maximum Pell grant that a student may receive in the 1989-90 award year shall be $2,300*: Provided further, That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: Provided further, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section: Provided further, That notwithstanding section 484 of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), in order for a student to be eligible to receive grant, loan, or work assistance under title IV of that Act, that student shall be required to have earned a high school diploma or its recognized equivalent if (1) that student is enrolled or accepted for enrollment in a course of study in preparation for an occupation for which the student must be certified by an agency other than the eligible institution or institution of higher education in order to begin practice or service, and (2) a high school diploma or its recognized equivalent is a requirement for that certification.*

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $3,174,400,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, [$180,000,000] *$169,978,000,* of which up to [$18,000,000] *$7,700,000* for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That [$82,500,000] *$84,978,000* of funds appropriated for title III of said Act shall be available only to historically black colleges and universities, *of which $4,500,000 is available until expended under section 403 of H.J. Res. 90, as passed by the Senate, if enacted: Provided further,* That up to $7,300,000 of funds appropriated for part A of title III of said Act shall be available for non-competing continuation awards made to four-year institutions in fiscal year 1988.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII; part D of title VII; parts A, B, C, D, E, and F of title IX; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, [$397,368,000] *$373,530,000,* of which $22,744,000 for part D of title VII shall remain available until expended: *Provided,* That $8,300,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That [$2,000,000 of the amount provided herein for subpart 4 of] *$1,000,000 of the amount provided herein for subpart 4 of part A of* title IV of the Higher Education Act shall be for the Ronald E. McNair Post-Baccalaureate Achievement Program*: Provided further, That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies: Provided further, That the Secretary shall, in carrying out section 802 of the Higher Education Act of 1965, give special consideration to applications from private urban institutions of higher education, or combinations thereof, with minority student enrollment exceeding 66 percent of total student enrollment, and with plans to develop from a traditional academic curriculum to a universal cooperative education program applicable to all undergraduate four year major fields of study.*

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation[: *Provided,* That during fiscal year 1989, gross commitments for the principal amount of direct loans shall be $62,231,000.]

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $1,675,000, to remain available until expended: *Provided, That notwithstanding section 761(e) of the Higher Education Act, no new commitments for loans may be made.*

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1989, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

[INCLUDING TRANSFER OF FUNDS]

For necessary expenses to carry out section 405 of the General Education Provisions Act, as amended, [$50,343,000] *$44,960,000*: *Provided,* That [$5,500,000 of the sums appropriated shall be used to continue] *$4,000,000 of the sums appropriated shall be used to complete* a rural education program by the nine regional laboratories.

For necessary expenses to carry out section 406 of the General Education Provisions Act, as amended by Public Law 100-297, [$23,669,000 including $300,000 for implementation of the Fellows Program] *$20,000,000,* and an additional $9,500,000 shall be for the National Assessment of Educational Progress[: *Provided,* That in addition $6,630,000 shall be transferred from the "Program administration" account.]

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, [$142,644,000] *$135,089,000*: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, [$5,381,000] *$5,400,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), [$33,231,000] *$33,031,000, of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: Provided, That none of the funds provided herein may be used to subsidize the tuition of foreign students.*

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, [$66,800,000] *$65,000,000,* of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$180,647,000: *Provided,* [That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed $500,000] *$176,147,000, of which $1,500,000* shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, [$249,849,000: *Provided,* That $500,000 shall be available until expended for carrying out the National Summit Conference on Education Act of 1984] *$260,600,000, of which $5,200,000 shall be available only for additional staff and related expenses necessary to increase the number of on-site student aid program reviews, and of which $5,600,000 shall be available for necessary expenses of the National Student Loan Data System upon enactment of amendments to section 485B of the Higher Education Act which will decrease student loan and default costs by more than the cost of the system on an annual basis.*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $41,341,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, [$17,911,000] *$18,400,000.*

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1989".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$168,863,000] *$171,897,000.*

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Commu-

nications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1991, $302,500,000 of which $57,500,000 shall be available for section 396(k)(10) of said Act: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That funds provided herein for fiscal year 1991 shall be available pending authorization.

[COMMISSION ON RAILROAD RETIREMENT REFORM

[For necessary expenses of the Commission on Railroad Retirement Reform established by section 9033 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), $1,000,000, which shall remain available until expended.]

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), [$26,127,000] *$24,937,000.*

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,079,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $800,000, which shall remain available until expended.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $500,000, which shall remain available until expended. Notwithstanding any other provision of law, the Commission shall be composed of sixteen members, including seven at large members.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $750,000.

NATIONAL COMMISSION ON MIGRANT EDUCATION

For necessary expenses of the National Commission on Migrant Education established by section 1439 of Public Law 100-297, [$2,000,000] *$1,000,000*, which shall remain available until expended.

[NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education established by section 1321 of the Higher Education Amendments of 1986 (Public Law 99-498), $800,000, which shall remain available until expended.]

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, [$974,000] *$1,174,000.*

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $138,647,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,551,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), [$6,002,000] *$5,831,000.*

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,059,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,664,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $355,000,000 [which shall include amounts becoming available] *of which $28,000,000 shall be available* in fiscal year 1989 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1990, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, [$59,312,000] *$60,350,000*, to be derived from the railroad retirement accounts: *Provided, That such portion of the foregoing amount as may be necessary shall be available for payment of personnel compensation and benefits for not less than 1,290 full-time equivalent employees: Provided further*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than [$13,678,000] *$13,950,000* shall be apportioned for fiscal year 1989 from moneys credited to the railroad unemployment insurance administration fund: *Provided, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 310 full-time equivalent employees.*

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than [$2,700,000] *$3,500,000*, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, [$37,657,000] *$37,700,000*: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary

of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,000,000, to remain available until expended.

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, H.R. 2470, as passed the Senate on June 8, 1988, $1,046,000, which shall remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $8,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

[SEC. 513. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal use or possession of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act. Pursuant to this section an applicant for funds to be appropriated under this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.]

SEC. 513. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 514. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

Mr. CHILES. Mr. President, Senate Budget Committee scoring of the Labor, HHS, and Education appropriations bill as reported by the full Appropriations Committee shows that the bill is under its 302(b) budget authority allocation by $1.5 million and just meets the outlay target. I commend my colleague, the distinguished ranking minority member of the subcommittee, Senator WEICKER, for his help in keeping this bill within out 302(b) allocations. However, since this bill just meets the budget outlay target, any amendments that would increase outlays will be subject to a 302 point of order.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Labor, HHS, and Education appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4783—LABOR/HHS/EDUCATION—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
302(b) BILL SUMMARY		
H.R. 4783, Senate reported (new budget authority and outlays)	125.3	104.8
Enacted to date	14.0	40.3
Adjusted to conform mandatory programs to resolution assumptions	+.4	+.5
Scorekeeping adjustments		
Bill total	139.7	145.6
Subcommittee 302(b) allocation	139.7	145.6
Difference	−(1)	0
Bill total above (+) or below (−):		
President's request	−.1	+.2
House-passed bill	−.4	−.1
SUMMIT CAP SUMMARY		
International affairs spending in bill	+(1)	+(1)

SENATE BUDGET COMMITTEE SCORING OF H.R. 4783—LABOR/HHS/EDUCATION—SPENDING TOTALS (SENATE REPORTED)—Continued

[In billions of dollars]

	Fiscal year 1989	
	Budget authority	Outlays
Allocation under international affairs cap	+(1)	+(1)
Difference	+(1)	+(1)
Domestic discretionary spending in bill	39.4	45.0
Allocation under domestic cap	39.4	45.0
Difference	−(1)	−(1)

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.
Prepared by Senate Budget Committee staff.

Mr. CHILES. Mr. President, the bill and report before the Members provides for $139.6 billion for the Departments of Labor, Health and Human Services, Education, and related agencies. Of this amount, only $39.4 billion is for discretionary programs, over which the Appropriations Committee has direct control. This is a $1.7 billion increase over fiscal year 1988 and, on an overall basis, the bill provides a 4-percent increase over the levels provided in fiscal year 1988.

Mr. President, based on the official CBO and Budget Committee scoring, the bill before the Members is at the 302(b) level for discretionary outlays of $45.04 billion. We are slightly under our 302(b) level for discretionary budget authority of $39.42 billion. As the Members know the bill must meet both the outlay and the budget authority ceilings, and therefore, any amendments to the bill will require both outlay and budget authority offsets.

The recommendations included in the bill accommodate as best as possible the many requests we have received from the other Members of the Senate, the many interest groups who have contacted us, and the 225 public witnesses that appeared before the subcommittee in public hearings. In the process of developing these recommendations we have consulted with the authorizing committees to also reflect as best as possible their concerns and priorities.

These many requests could have been met more fully had the subcommittee received a higher 302(b) allocation. As many of the Members will remember, there was an extended committee debate regarding these allocations, and the final Labor-HHS Subcommittee allocation is $900 million less than the levels contained in the conference agreement in the budget resolution for these same programs.

Mr. President, I will not take the Members' time to go over the many details included in H.R. 4783, the bill now before the Members. I would like to briefly mention, however, several of the funding highlights included in the bill.

For AIDS we have included $10 million more than the House and $10 million more than the administration. The allocation of these AIDS funds has been closely coordinated with Senator WEICKER, our ranking member, and we have added funds for more positions, facilities, and clinical trials than was requested by the administration.

Biomedical research efforts are increased 8.6 percent; health service programs are increased 10.2 percent and all the several programs for drug abuse research, drug education, and drug treatment are increased 16 percent over last year.

We have included $561,000,000, the fully authorized level for maternal and child health.

For the Social Security Administration we have included the necessary funding and language to add 1,500 full-time equivalent positions over the requested level.

We have included a 16-percent or a $43 million increase for mental health research.

Chapter 1 compensatory education programs for the disadvantaged are funded at $4,589,800,000 or $262 million over fiscal year 1988.

Student financial assistance programs total $5,837,095,000, $292,303,000 more than the administration request, to provide assistance to over 5.6 million students.

Finally, for the low-income home energy assistance program, we have included the administration's request which is $345 million less than this year's funding level. With a higher 302(b) allocation, more could be recommended for this program.

Mr. President, finally, I would like to thank Senator WEICKER and his staff for their very fine cooperation and assistance in the preparation of this bill and the accompanying report. At this time I yield to Senator WEICKER for any opening statement he may wish to make.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Thank you.

Mr. President, I would like to commend my good friend from Florida for the job he has done in putting together a fiscal year 1989 Labor-HHS, education bill we can all support. Given the constraints imposed on the Labor-HHS Appropriations Subcommittee from the 2-year budget summit agreement and this year's 302(b) allocation, I believe the bill before us today, H.R. 4783, maintains the Federal Government's commitment to those who need our help the most.

It increases funds for AIDS research, education, and health care programs. It restores proposed cuts in the vaccine stockpile and State operations costs for the Childhood Immunization Program. It also provides the funds needed to pay for a new H-flu vaccine now available to our children.

H.R. 4783 restores the massive cuts proposed in the President's budget for geriatrics training, nurse training, and the education of all our health professionals. The bill before us today rejects the administration's proposal to phase out the protection and advocacy program for the mentally ill and, instead, provides a modest increase for this program, the one program that is designed to monitor the most basic health and safety conditions inside our State institutions.

Funds are increased for education programs for the handicapped and economically disadvantaged. The maximum Pell grant award is increased from $2,200 to $2,300 and funds are provided for new programs created under the chapter 1 reauthorization bill. The legislation before us today also includes funding for the newly established National Commission on Children as well as the Commission on Comprehensive Health Care.

Finally, this bill restores the right of poor women who are the victims of rape or incest to choose to have an abortion paid for under the Medicaid Program. As I know my colleagues are aware, current law says that a poor woman, who becomes pregnant as a result of rape or incest, is not eligible for a Medicaid-funded abortion. The full Committee on Appropriations voted to change the law and restore the rape or incest exceptions to the funding restrictions imposed on Medicaid funds in this bill. I urge my colleagues to support the committee position on this issue.

I might add, Mr. President, if there are those who do have amendments on this or any other matter, that are of a philosophical nature, I would suggest they bring those amendments to the floor and let us have up-or-down votes. I do not intend, and I would hope that the Senate does not intend, to see this bill which in effect is responsible for all the education funding, all the health care funding, and all the science funding in the United States, get bogged down to the point where it becomes part of a continuing resolution rather than standing on its own two feet.

We can and do take days and days and days on defense items and foreign policy items. The matters in this bill are the ones that most directly impact on the families of America, the education of their children, health care and health care costs, the money we invest in research for heart, cancer, arthritis, diabetes, the money that we invest for safety in the workplace, all these matters are under the aegis on this legislation and there is no reason why it should not be presented and have up-and-down votes on those matters that are of concern to Senators and then

move it off the floor and into conference and to the President's desk for signature.

Mr. President, I do have one outstanding concern regarding the labor, HHS and education bill and that is the funding level for the Low Income Home Energy Assistance Program [LIHEAP]. The bill before the Senate today would cut the Fuel Assistance Program by $345 million. At the appropriate time, I intend to offer a sense of the Senate resolution calling for the restoration of funds to this program.

Having said all that, I urge my colleagues to support H.R. 4783. It is a good bill and a bill that provides for the most basic labor, health, and education programs in our country and I urge its adoption.

Mr. President, I understand the distinguished chairman of the Appropriations Committee, Senator STENNIS, who has given all of us the greatest in guidance, both as to the substance and as to the integrity of our commitments, wishes to say a few words.

I take this occasion to express my appreciation to him not only for his chairmanship of the Appropriations Committee but for his friendship ever since the first day I walked into the U.S. Senate. To have sat alongside him and received his good counsel and advice, has been one of the greatest privileges accorded to me during my 18 years in the U.S. Senate.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I am pleased that the Senate will consider today the labor, HHS, education and related agencies appropriation bill for fiscal year 1989. This bill, which provides approximately $140.4 billion in total budget authority for fiscal year 1989, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of subcommittee Chairman CHILES and the ranking minority member, Senator WEICKER. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. Mike Hall, Mr. James Sourwine, Ms. Mary Malaspina, Mr. Peter Rogoff, Ms. Susan Quantius, Ms. Nancy Anderson, Ms. Annette P. Feathers, Ms. Maureen Byrnes, Ms. Ricki Sheehan, Mr. Craig Higgins, and Ms. Dona Pate.

Mr. President, to experience it day after day, week after week and session after session, the work that now goes with the careful microscopic examination and preparation of these large appropriation bills, is amazing. It is rendering a very fine service to the country. These members do take their time and give it a great abundance of time in passing judgment, exchange of views, and seeking information carrying these large loads. I see it going on all the time, and I think they are appreciated for doing it, but I think they ought to be recognized even more.

I now wish to briefly highlight a few important items regarding this bill.

First and foremost, I am pleased to report that this bill is within the 302(b) allocation for budget authority and outlays. Similarly, this bill complies with the budget summit agreement reached between the administration and the Congress on November 20, 1987.

Second, the bill as reported to the Senate is only $1.8 billion above the President's $138.6 billion request and approximately $4.6 billion above the House-passed bill.

Finally, I would ask my colleagues to resist any further amendments adding additional funds which would violate the bill's spending ceiling set by the committee's 302(b) allocation. Let me also mention that the Senate rules do not permit legislative amendments on appropriation bills.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner. It remains my sincere desire to complete Senate action on all 13 regular appropriation bills as soon as possible.

Mr. President, I thank the Chair and the membership and yield the floor.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with certain exceptions as follows:

Page 39, lines 25 and 26; page 46, lines 2 and 3; page 51, lines 7 through 10; page 56, lines 1 through 17; and page 56, lines 17 through 25; and page 57, lines 1 through 4; and that the bill as thus amended be considered as original text for the purpose of further amendments, providing that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. CHILES. Mr. President, I would like to hold that up for a minute. Senator WEICKER is not here.

The PRESIDING OFFICER. The request is withdrawn.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to proceed for 6 minutes as in morning business.

The PRESIDING OFFICER. Is there any objection?

The Senator from Vermont is recognized, as in morning business, for 6 minutes.

(The remarks of Senator LEAHY pertaining to legislation are located in today's RECORD under "Reports of Committees."

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont yields the floor.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST

Mr. CHILES. Mr. President, earlier I was ready to propose a unanimous-consent agreement that certain committee amendments be considered en bloc. I withheld that at the time. I would like to remake that request. I ask unanimous consent that the committee amendments be agreed to en bloc with certain exceptions as follows: page 8; lines 5 through 14 on page 10; page 46, lines 2 and 3; page 51, lines 7 through 10; page 56, lines 1 through 17; and page 56, lines 17 through 25; page 57, lines 1 through 4, and that the bill as thus amended be considered as original text for the purpose of further amendments providing that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, I want to thank the chairman and the Senator from Connecticut for withholding that request for some time to permit consultation. Nonetheless, I am constrained to object to the request.

Mr. CHILES. Mr. President, objection has been heard. I want to sort of put the Senate on notice. This means that we have about 200 amendments, many of which are just dollar figures that have been changed in the House bill. Those amendments will all have to come up. So I think people ought to

be making their plans accordingly because we are going to have a few amendments.

COMMITTEE AMENDMENTS

Mr. CHILES. Mr. President, committee amendment No. 1 is in line 5 at page 2: Strike the number $72,289,000, and insert $71,638,000; and on line 6, strike the number $46,607,000 and insert the number $50,406,000. I urge that the amendments be adopted.

The PRESIDING OFFICER. The question is on agreeing to the two amendments en bloc.

The amendments were agreed to en bloc.

Mr. CHILES. Mr. President, I think we had better move to reconsider the vote by which the amendments were agreed en bloc.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the two committee amendments were approved en bloc.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 2, line 12, strike the number $3,705,129,000 and insert in lieu thereof $3,769,316,000. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 2, line 16, strike the number $70,572,000 and insert in lieu thereof $68,172,000. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 2, line 17, strike the number $9,966,000 and insert in lieu thereof, $9,633,000.

The PRESIDING OFFICER. Is there debate on the committee amendment? If not, the question is on agreeing to the amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 2, line 19, strike the number $3,000,000 and insert in lieu thereof $5,000,000.

The PRESIDING OFFICER. Is there debate on the amendment?

If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 2, line 22, strike all after the words "Partnership Act," and strike the remainder of line 22, all of line 23, all of line 24, all of line 25, through the words "of the Act:", and insert the following language: "$12,000 shall be used to begin acquisition, rehabilitation, and construction of six new Job Corps centers and $2,500,000 shall be for programs serving American Samoans under the Job Training Partnership Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers."

The PRESIDING OFFICER. Is there debate on the amendment now pending?

If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 3, strike all of lines 6, 7, 8, 9, and 10.

The PRESIDING OFFICER. Is there debate on the amendment now pending?

If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 3, line 13, strike the number $50,000,000 and insert in lieu thereof $47,870,000.

The PRESIDING OFFICER. Is there debate on the amendment now pending?

If, not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 3, strike lines 14 through 24 and on page 4 strike lines 1 and 2.

The PRESIDING OFFICER. Is there debate on the amendment now pending?

If, not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 4, line 9, strike the number $269,880,000 and insert in lieu thereof $273,000,000.

The PRESIDING OFFICER. Is there debate on the amendment now pending?

If, not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 4, line 12, strike the number $76,120,000 and insert in lieu thereof $77,000,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 5, line 16, strike the number $2,472,714,000 and insert in lieu thereof $2,484,890,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 11, line 14, strike the number $292,000,000 and insert in lieu thereof $255,000,000.

The PRESIDING OFFICER. The Chair makes inquiry as to whether there is objection to the Senate proceeding not in the order in which the amendments are set forth.

Without objection, the Senate will proceed accordingly.

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 11, line 26, strike $688,214,000 and insert in lieu thereof $691,394,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, on page 12, line 6, strike $24,055,000 and insert in lieu thereof $27,234,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 12, line 24, strike $246,517,000 and insert in lieu thereof $246,851,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 12, line 25, strike $43,000,000 and insert in lieu thereof $42,334,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, on page 18, line 19, strike $117,339,000 and insert in lieu thereof $118,839,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 18, line 25, strike $148,887,000 and insert in lieu thereof $160,006,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 19, line 6, strike $39,497,000 and insert in lieu thereof $40,222,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 19, strike the language on lines 23, 24, 25, and 26.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 20, line 1, strike the number 104 and insert in lieu thereof the number 103.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on age 20, line 7, strike the number 105 and insert in lieu thereof the number 104.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. On page 11, line 26, strike the number $688,214,000 and insert in lieu thereof $691,394,000.

Mr. HELMS. Mr. President, will the Senator repeat that?

Mr. CHILES. I missed one. It is page 11, line 26, talking about black lung—$688,214,000, changed to $691,394,000.

The PRESIDING OFFICER. That amendment has been agreed to previously.

Mr. CHILES. I thank the Chair.

Mr. President, on page 11, line 14, strike the number $292,000,000 and insert in lieu thereof $255,000,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 20, line 23, add the following language: "and title IV of the Health Care Quality Improvement Act of 1986, as amended." That amendment is partially on 23 and adding line 24.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The clerk will now report the committee amendment on page 20, line 20.

The legislative clerk read as follows:

On page 20, line 20, insert VIII and X.

The PRESIDING OFFICER. The amendment is now before the Senate. Is there debate on the amendment?

AMENDMENT NO. 2655

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2655 to the committee amendment on page 20, line 20.

On page 20, line 20 strike "X".

Mr. HELMS. Mr. President, momentarily, I shall ask for a rollcall on my amendment to strike title X of the Public Health Service Act from the committee amendment.

A few years ago, I recall quoting a statement to the effect that $1½ billion in the hands of terrorists could not have inflicted the long-term harm to our society that title X expenditures have done. I agreed with that statement then and I agree with it now, and I believe the American people would agree also if they could be made aware of the facts.

In the judgment of this Senator, for far too long many Senators and Congressmen have been afraid to address the problems in this program for fear of the wrath of Planned Parenthood and the rest of the abortion industry in America. I think it is time that we lay the facts on the table. The American people need to make a judgment for themselves.

Despite the new regulations, there are still problems with title X and Congress should have the courage to correct them. The American taxpayers have the right to know that their tax dollars are being used by Planned Parenthood and the abortion industry in this Nation to subsidize abortion-related activities clearly in violation of the original intent of this legislation; that the title X moneys—hard-earned tax dollars—are being used to provide free contraceptives to minors in community after community across this land and in the schools of this country without parental consent; and that the title X program has failed miserably to curb teenage pregnancies and teenage abortions and, in fact, probably is exacerbating the problem.

Let us look at what course this program has taken with respect to maintaining the intended wall of separation between abortion and family planning.

It is obvious that Congress intended a strong wall of separation between abortion and family planning. In explaining section 1008—the language disqualifying programs from title X funds if they were involved in abortion—the sponsors were clear:

With the "prohibition of abortion" the committee members clearly intended that abortion is not to be encouraged or promoted in any way through this legislation.

Yet, once passed, the bureaucratic termites—with the pressure of special interest groups—began eating away at this program's purpose and its prohibition on abortion. It was only a matter of time before they had reshaped the title X program from one which was not intended to be involved in abortion at all to one where millions of dollars in tax funds subsidize the abortion industry.

Under current policies, title X recipients can engage in abortion so long as they play the shell game and use nontitle X moneys to perform—and I stress the word "perform"—abortions. Title X funds have been used to inspect facilities to determine their suitability to provide abortion services. Title X moneys have been used to pay dues to organizations that advocate abortion.

In 1982, the General Accounting Office [GAO] investigated this matter and found the following: One clinic provided loans for abortions from nonprogram funds but charged to the title X program the administrative costs associated with the referral and loans. Another clinic—these are just examples—handed out materials which listed various birth control methods with the barrier method and early abortion in the event of failed contraception. Four clinics provided clients brochures prepared by abortion clinics. Several clinics in Indiana, just for example, provided and witnessed the signing of consent forms required by an abortion clinic.

Now, how is that for abuse of the legislative intent?

GAO also discovered that HHS had neither clarified its policy with respect to abortion related activities nor used its regulations and guidelines to communicate to title X recipients its position on section 1008. In conclusion, the study recommended that the Secretary establish operational guidance to title X recipients and incorporate this guidance into Title X Program regulations and guidelines.

I do not know about other Senators, but I find it disturbing that over the course of the last decade a large portion of the title X moneys have been used for secret sex programs for our Nation's teenagers. I used the word "secret" because the bureaucrats have, through confidentiality and income eligibility requirements, made sure that important people are left in the dark. Those important people are the parents of the teenagers.

I believe American parents deserve an explanation as to why they must give consent before their child gets her ears pierced, yet, they are not even notified when their child receives contraceptives funded with Federal tax dollars through title X.

I suppose many in Congress have tolerated these secret sex clinics because the so-called experts had told them—and they believed it—that these kinds of programs were the solution to the teen pregnancy problem. Do not believe it, Mr. President.

Well, 16 years and $1.8 billion later, it is obvious that the "experts" were wrong. Just laying aside the morality of it all, the experts were wrong in their forecast as to what would happen. Just look at the facts. There were studies by Zantner and Kantner in 1971, 1976, and 1979 show a near doubling of pregnancies from 1971 to 1979 among unmarried girls and young women aged 15 to 19 from 8.5 percent, to 16.2 percent, followed by a slight decrease in 1982 to 13.5 percent.

The Congressional Research Service reports that illegitimate births among this age group have increased from 190,000 in 1970 to 263,000 in 1980. Abortions among this age group have doubled since 1973 from 232,000 to 445,000 in 1980.

In Minnesota, where a 1981 law required parental notification for abortion, the pregnancy, abortion, and birth rates among adolescents plummeted.

According to a 1985 report by the House Select Committee on Children, Youth, and Families, from 1980 to 1983, abortions to Minnesota teenagers, aged 15 to 19, dropped 40 percent.

The teenage birth rate decreased 23.4 percent, and pregnancies decreased 32 percent. That is where they required parental notification.

It is bad enough that the American taxpayers are forced to provide enormous sums of money, $1.7 billion to date, to stock the teen contraceptive armory. But now the title X cannons are being aimed at America's classrooms.

Since Planned Parenthood and other pro-abortion groups have failed in curbing teenaged pregnancy to date, they have decided that they must get to the teens before they become sexually active.

According, Mr. President, to a 1986 publication by the Centers for Population Options, 17 States have school-based clinic programs providing contraceptives, prescriptions for contraceptives, or referral for contraceptives. All of this without the parents' knowing one thing about it. It is not lawful to let the parent know what the teenager is doing.

There are 53 high school sites and 8 junior high school sites, and title X provides about 3 percent of the public funds used by these clinics.

Have they worked? In the sense of getting more teens hooked on contra-

ceptives, yes. Have they reduced teenaged pregnancy? Absolutely not.

A few examples. In Muskegon Heights, MI, Planned Parenthood has set up shop in a local high school and, in 1985, Planned Parenthood boasted in an information packet that it had successfully reduced the birth rate in the high schools from 13 percent, when the clinic opened, to 10.3 percent, 3 years later. But later in the materials Planned Parenthood had to admit no significant change in the pregnancy rate. So, the writing's on the wall. The school-based sex clinics have increased abortions and have not reduced pregnancies.

In Kansas City, the clinics increased contraceptive use from 50 percent in 1983 to 63 percent in 1985, yet the pregnancy rates remained about 10 percent in both years; although the proportion who reported that they had had a baby dropped only slightly.

These are just examples; I could go on and on. But, even if leaving parents out in the cold and school-based sex clinics had reduced teenage pregnancies, I question the long-term implications of this kind of policy by the Government of the United States; using funds furnished by the taxpayers of this country. A fair question, I think, is: Is it prudent for the physical health of our children to be pumping them with contraceptives, often powerful drugs? And what about the rising incidence of sexually-transmitted diseases among our youth? The most effective methods of protection against pregnancy will not protect our children against sexually-transmitted diseases. The statistics show, in fact, a dramatic increase in the incidence of sexually-transmitted diseases among young people. The most current statistics show that one in seven teenagers has a sexually-transmitted disease. Of course, what about AIDS? There are 148 cases of AIDS among those in the age bracket 13 to 19.

There are 7,686 cases among the age bracket from 20 to 29; many of whom are believed to have become infected as teenagers. These figures will certainly grow as the AIDS virus spreads.

Sexual activity is a significant risk factor for contracting AIDS. Nobody denies that. And I think we have to face up to the question: Do we not owe it to our children to do the best we can to make sure they do not contract AIDS? And how do you do that? This legislation, as it now stands, says: Well, just do not let the parents know you are getting contraceptives. That is their cure for it.

The American people certainly, I think, have a right to know how each of us stands on contraceptives without parental consent. The American people have a right to know how each of us feels on school-based sex clinics, and the subsidizing of the abortion industry with hard-earned tax dollars. That is why I am raising these issues on the Senate floor. That is the reason I am going to ask for the yeas and nays on the pending amendment, if title X is not eliminated from this bill.

I will drop the subject if title X is eliminated from this bill. But we are going to vote on these issues otherwise. If this Senate is really interested in restoring the original intent of this legislation, it should rebuild, right now, the intended wall of separation between abortion and contraceptives by prohibiting organizations engaged in abortion from receiving title X funds. If the Senate is really interested in reducing teenage pregnancies, the incidence of sexually transmitted disease and AIDS among our young people, I suggest that we stop applying Band-Aids to the symptoms and start addressing the problem—which, incidentally, is teenage promiscuity, not teenage pregnancy. And I suggest most of all that we restore to the parents of America their right to guide, monitor, and control the sexual activity of their children.

There are a lot of people around this town who run for the hills when this word comes up. They do not like to hear us talk about it. The word is "morality." But I think we need to return to some moral principles, the kind on which this country was founded. We need to teach our children that sex outside of marriage is wrong. It may be old-fashioned but it is still wrong. We have spent millions of dollars on "Just Say No" campaigns against drugs and alcohol. Why not do it the same way with teenage sex?

So, it is put up or shut up time now. I may be defeated on this amendment. If I am, we will keep trying. But I am absolutely persuaded, Mr. President, that we must end the collaboration between the title X program and the abortion industry. We must end the raging assault the title X cannons have leveled against our parents and against our children.

I hope Senators will vote for my amendment to strike title X from the committee amendment.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I do not know how long a debate we are going to need on this, but I have listened with some interest to the remarks of the Senator from North Carolina. When I hear him say that here we have spent money on family planning and yet we still have teenage pregnancies—well, we spend money to have game wardens, and we still have poachers. We spend money on law enforcement people and prisons, and we still have murders. We do not say that we are going to do away with the game laws, we are going to do away with money that we spend on that because we still have some instances.

I think the question we need to ask ourselves, Mr. President, is: The money that is spend on family planning, how many pregnancies has it prevented? How much greater would the number of teen pregnancies be? How much greater, Mr. President, would the number of abortions be, if you did not have some of these services available? And I do not have any problem saying their number would be legion. Their number would be legion.

So, when we want to talk about saving lives and whether we say life begins at the moment of conception or at the moment of gestation or when it begins, I do not think there is any doubt that thousands of people that I know in my State that are dedicated and in the service of family planning have those same concerns.

They work tirelessly and endlessly to promote those concerns. They are effective, and they allow many people who are poor who do not have the advantage of some of the education that others do an opportunity to chart their own course in life and to have some say-so about what that life is going to be without having the pregnancies that come on at times in which they cannot take care of the children or times in which they would terminate that pregnancy by virtue of an abortion had they not been given some kind of knowledge and some kind of understanding that they could and should plan their destiny and their families.

I see time after time where you have that teen pregnancy that one can almost set a clock that if there is not an intervention, if there is not any education, a young girl who becomes pregnant at age 13 or 14 will have two or three more children by the time she is 18. She will repeat and repeat. But where there is some kind of counseling, where there is some kind of family planning, in many instances, you will not have that kind of repeat, and she will be able to get her child into some kind of child care where she can continue to work and take care and have a meaningful life of her own. That, I think, is what we are talking about here. That is what much of this money is spent for.

I know the Senator from Connecticut is going to want to speak. After that, I think maybe we should enter a motion to table this amendment.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I concur with the arguments presented by the distinguished Senator from Florida, and I am sure there will be many more amendments offered upon

which the Senator from North Carolina and I will disagree. I will be brief.

What is at issue here is what is at issue in many of the areas of controversy between the Senator from North Carolina and the Senator from Connecticut, and that is the value of, and the necessity for knowledge and education.

The Senator from North Carolina, in this amendment, is objecting to title X, which is an education program meant to assure that the tragedy of unwanted pregnancy does not occur, or unwanted abortion does not occur, or infant mortality does not occur, or low birthweight babies does not occur. That is what is at issue here, just a matter of knowledge to assure that people understand the consequences of their acts, that they understand the alternatives available to them—education and knowledge.

This amendment, to eliminate title X comes from the same school. It comes from the same school of thought that says, "Let's not educate on the subject of AIDS for fear that we are going to teach homosexuality," when, indeed, the only manner that we have to deal with this disease is education, is knowledge. We have no vaccine; we have no chemotherapy. All we have is education, but you cannot educate, you cannot give that knowledge for fear that you will teach homosexuality. So those who are at greatest risk never receive the knowledge necessary to avert the tragedies of that disease.

After the U.S. Senate gets through with its huffing and puffing on what to do with the crisis of drugs confronting this Nation, I simply suggest that nothing we do will ever be able to dry up the supply coming into the United States. Our job is to dry up the demand by educating our children, 5 years of age on, if necessary, as to what taking drugs mean to their lives—death or something close to it. But the only way we do that is by education, by knowledge. The billions that are required now will be far less than the trillions that will be required eventually to go ahead and combat that problem.

So whether you talk pregnancies, whether you talk AIDS, whether you talk drugs, yes, knowledge is the basis of any assistance or any victory which we hope to attain. But apparently there is a school of thought of no knowledge, no education; let the consequences speak for themselves.

I do not think that is a course of action that any civilized nation would deem prudent.

Title X is not an abortion program. It is a knowledge program. It has been enormously successful. Indeed, the Department of Health and Human Services, which monitors the program, has not found any violation of the prohibition within that program for abortions. So there has been no violation there. The family planning programs under title X proceed to disseminate knowledge.

There will be more on the subject in the course of debate. Do we want to go ahead and confront the problems of this Nation through knowledge, or are we to swim in a sea of ignorance and reap the consequences therefrom?

For those who differ from this Senator on the subject of choice and the subject of abortion, they should stand up en masse and be for title X because, indeed, if the precepts of that program are followed, then you do not even get into the subject of abortion.

I really have no more to say on this because I suspect this is going to be far-reaching in terms of the debate. I do not want to use up the time of the Senate, but I want to make one other comment insofar as this legislation is concerned. I am talking about all of the legislation.

This bill has as its purpose the funding of those agencies and programs administered by the Federal Government which impact upon education, health, science, labor, and safety in the workplace. Twenty-eight residents of the State of Connecticut are dead because of inadequate OSHA funding and OSHA inspections.

It has to do with the education of our children, those who are economically disadvantaged and those who are handicapped. When we passed 94-142 13 years ago, we said we are going to fund 40 percent of that program. We have never gone over 12 percent. Now, we have 8 percent in this bill. Even now that is in danger.

The funding for research and education, insofar as AIDS is concerned, is in this bill, but we are going to delay it because of philosophical disagreements on this floor. I point out to my colleagues that 2 years ago the Senator from Florida and the Senator from Connecticut instructed that an AIDS mailer go out to the American public, and because of the philosophical debates within the administration, that mailer is 1 year late—1 year late.

Now, you answer me the question: How many of our fellow citizens contracted the disease in that 1 year and who will now die because somebody wanted to have an academic or philosophical debate?

Make no mistake about it, whether it is delay on the Senate floor or delay in the actions of this Government, there is a price to be paid.

We are within 1 month from our young people attending the various institutions of learning in this country thanks to economic assistance from their Government—student loans, grants. It is all in this bill. Heart disease, cancer, diabetes, arthritis, all those matters that make us weep daily as we lose loved ones, friends. The research that goes into finding cures, it is all in this bill. Childhood immunization, it is in this bill. Geriatric training so that we have adequate personnel to deal with this aging population, it is in this bill.

Funds to reduce the nurse shortage that the Nation is now experiencing, nurse training, are in this bill. Vocational education, it is in this bill. I go down the check list.

I have said before and I will say it again, here the chairman of the committee is being put through this exercise of having to read over 200 committee amendments. What a travesty. What a waste of power.

I understand having an up and down vote on the amendment of the distinguished Senator from North Carolina. If somebody objects, let them have an amendment and let us have it out and be done with it. But why hold hostage the diseased, the ill, the children, the elderly, the workers of this Nation to the philosophies of a few on this Senate floor or within the administration? A waste of power that is ours to exercise is only matched by the tragedy that that waste visits on others.

Unless there is objection, I would move to table the amendment, but I certainly will withhold for the Senator from Illinois.

Mr. SIMON. If my colleague will withhold for a couple of minutes, let me add a few words.

First—and I see he is not on the floor right now—I welcome our colleague from North Carolina back in good health. We are all very pleased to have him back. He looked like he was in good health and I know he is in good health when he offers an amendment like this once again.

I commend my colleague—I see him walking on the floor, and I hope he heard my words. We are very pleased to have the Senator back in good health.

Mr. HELMS. I thank the Senator.

Mr. SIMON. I join my colleagues from Connecticut and Florida in opposing this amendment, but let me just add one other word. When we talk about teenage pregnancy, there are really two things that we ought to be looking at that we have not looked at as effectively as we should. There are about a million teenage pregnancies each year in this country, about 400,000 of which end up in abortions.

I was doing a study of unemployment in our State and then taking a look at the teenage pregnancy rate and found an amazing correlation between the two. You show me a county in my State—and I am sure the same is true in North Carolina, in Florida, in Connecticut—with a high unemployment rate and I will show you a county with a high teenage pregnancy rate.

There is a second correlation, and that is the relationship between drop-

out rates in schools and teenage pregnancy rates. You show me a district with a high dropout rate, and I will show you inevitably an area with a high teenage pregnancy rate.

I am all for the educational programs, and I will vote against the amendment of my friend from North Carolina, but to effectively move on this problem we are going to have to face up to the problem of unemployment in this country, we are going to have to face up to the dropout problem in this country in our schools and have programs that really deal with those things much more effectively.

I hope, as we move ahead, we can more intensively look at the problem of dropouts, look at the problem of unemployment, and then we are going to see fewer teenage pregnancies and fewer abortions as a result.

Mr. MELCHER. Mr. President, unless there is an objection——

Mr. HELMS. Let me have a couple of minutes, if the Senator will, and I thank him very much.

First off, let it be made a matter of record that at the outset I offered the managers of the bill a proposition which in their own good judgment they declined. I said to them that I would withhold offering 10 of the 14 amendments I wanted to offer if the rape and incest provision were dropped. They discussed this offer and so that is why we will be on this bill for quite some time. I do want to expedite consideration of this bill as much as possible.

Now, as for the justification that has certainly been implied for not letting parents know that their children are being given contraceptives at schools and how well this is working, I must submit that what has been said is not accurate. I know those who have said it believe it, but there is no study of which I am aware that confirms their position.

Now, Planned Parenthood, for example, has claimed that more than 800,000 unintended pregnancies a year are avoided as a direct result of the federally funded Family Planning Program, more than one-half of them among teenagers. Now, one wonders how Planned Parenthood arrived at such a conclusion. Knowing Planned Parenthood, I know how they arrived at it. They reached up into thin air and pulled it down. They have no substance for proving a negative.

Mr. President, I have a study by two distinguished Americans, Joseph A. Olsen and Stan E. Weed, concluding that federally funded Family Planning Programs have not—and I repeat for emphasis, have not—reduced teenage pregnancy. In fact, to quote from the report, "Greater teenage involvement in family planning programs appears to be associated with higher rather than lower teenage pregnancy rates."

Now, if I were of a mind to, I could consume a great deal of the Senate's time by reading this study, but I will not do that. I do not want to take up the Senate's time, but I do believe it is imperative that Senators at least have it available to read in the RECORD.

If they read it, I think they will realize that there is evidence to show that involvement in these so-called family planning clinics will not reduce teenage pregnancies.

Therefore, I ask unanimous consent, Mr. President, that a copy of the Olsen-Weed study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTS OF FAMILY PLANNING PROGRAMS FOR TEENAGERS ON ADOLESCENT BIRTH AND PREGNANCY RATES

This study was completed under a contract with the Brigham Young University Law School as part of an on-going research project dealing with legal, social, and public policy issues concerning children, youth, and families.

Joseph A. Olsen and Stan E. Weed. Institute for Research and Evaluation. Salt Lake City, UT. A non-profit research organization.

A major goal of family planning programs providing contraceptive services to teenagers is to reduce their unintended pregnancies. In the past two decades, the number and proportion of adolescents served by organized family planning programs have increased substantially. Previous studies have estimated the effects of family-planning pograms on teenage fertility rates, but the impact of these programs on adolescent pregnancy rates has not been examined directly. This study provides direct estimates of how adolescent family-planning programs impact both pregnancy and birth rates among teenagers. A regression analysis of interstate variation in 1978 birth and pregnancy rates showed about 30 fewer births to adolescents for every 1000 teenage clients served by organized family planning programs, an effect similar to that reported in a number of previous studies. However, instead of the expected reduction in teenage pregnancies, greater adolescent involvement in family planning programs was associated with significantly higher teenage pregnancy rates. The observed effect is dramatically different from one hypothesized on the basis of the expected reduction in adolescent pregnancies due to improvements in contraceptive practice among teenagers attending organized family planning clinics.

INTRODUCTION

Adolescent pregnancy remains a significant area of public concern in the United States and has received considerable attention in both the public media and the professional literature. Out-of-wedlock birth rates, abortion rates, and overall pregnancy rates continue to rise, with more than a million teenagers becoming pregnant each year (Tietze, 1978; Alan Guttmacher Institute, 1981; Dryfoos, 1982; and Meckleberg and Thompson, 1983). This rise has occurred despite major efforts to increase adolescent participation in organized family-planning programs. Since passage of the 1970 Family Planning Services and Population Research Act, family planning clinics have become more numerous, with sponsorship and funding coming from the federal government through state departments of health, Planned Parenthood affiliates, hospitals, and other independent agencies. State funds have also been provided on a matching or ratio basis to supplement the federal funds. Concern about the growing incidence of teenage pregnancy has been an important factor in expanding these programs and special efforts have been made to extend these services to adolescents.

The goals and purposes of the U.S. family planning program have been to reduce the number of unwanted and mistimed pregnancies by broadening access to family-planning services. There has apparently been considerable progress in making these services more accessible in general and at reaching more teenagers in particular. For example, in 1970 about 23% of all patients at family-planing clinics were under 20 years of age. Five years later, 30% of the caseload were teenagers and the number of adolescents served had increased more than 200% (Moore and Burt, 1982). By 1980, nearly three times as many black teenagers and almost 17 times as many white teenagers received family planning services from organized programs as in 1969. In 1980, 30% of teenagers estimated to be "at risk of unintended pregnancy" were involved in organized family planning programs, while in 1968 the corresponding figure was less than 5% (Alan Guttmacher Institute, 1982). Of the estimated 2.7 million adolescent women who received contraceptives from a medically supervised source, 56% were clinets of an organized family planning program (Torres et al., 1981). Substantial increases in the accessibility and availability of family planing services for adolescents have been observed. By 1976, only 3% of teenagers who did not use birth control said it was because they did not know how or where to obtain it (Zelnik and Kantner, 1979).

Despite this "unprecedented volume of utilization" (Dryfoos, 1985), Rodman et al., (1984) recommend even greater federal support to make reproductive health services available to adolescents:

"It is therefore important to maintain publicly supported services for adolescents, especially since these services are highly cost effective. By increasing rather than decreasing federal support for clinics that provide teenagers with effective and confidential services, we would make it possible for more teenagers to get responsible advice and comprehensive service in sexual health. This would in effect make it possible for adolescents to exercise responsibility and competence in their sexual behavior. It would almost certainly fulfill one of the goals about which there is consensus in American society—"reducing the rate of unwanted pregnancy among teenagers." (Rodman et al., 1984:152).

In addition to levels of government support and general social policy priorities, questions have also been raised about alternate funding strategies and legal issues involving minors' rights. Many involved with family-planning programs feel that subsidized family-planning services, including those to teenagers, are better administered through federal categorical programs than through block grants to states or other local option mechanisms. They argue that block-grant or local option-approaches might lead to non-uniform and less adequate levels of service and access in some geographical areas, and that some states may de-emphasize or even discontinue the programs.

The legal questions surrounding the issue of teenagers' access to family-planning services often surface in the form of laws, administrative regulations, and judicial decisions dealing with parental consent and notification. Family-planning clinics have generally opposed legislation or administrative policy which would make their services less accessible to adolescent clients. They argue that teens will be less likely to use family-planning services if parental involvement were required and that they would consequently have more unwanted and mistimed pregnancies.

Before dealing with these issues—funding strategies, parental involvement, and reduced teen use if parental involvement is mandated—we must first determine the extent to which family-planning clinics effectively contribute to the reduction of teenage pregnancy rates. In fact, all policy and funding decisions require a clear picture of how well the program achieves its intended outcomes. This empirical question is the first basic concern of the present research.

Well informed decisions about social policy with respect to teenage pregnancy depend on accurate estimates of program effects. As Robert Boruch has put it in the foreword to a recent book evaluating family-planning programs in the Third World, "We need to understand whether and why our efforts succeed or fail in order to do better" (Hernandez, 1985).

A number of studies have examined the relationship between adolescent involvement in family-planning programs and teenage birth rates by using regression analysis of areal data. Such studies use traditional multiple-regression procedures for given geographical areas, rather than using individuals as the unit of analysis (see Hermalin, 1978). A significant negative regression coefficient for the effect of teenage family planning involvement on adolescent fertility would be consistent with the hypothesis that teenage participation in family planning programs leads to lower teenage birth rates.

These studies have used various areal units (states, Standard Metropolitan Statistics Areas (SMSAs), counties or groups of counties), different time periods, and a variety of analytic approaches. These studies also show considerable variation in how dependent, independent, and control variables have been conceptualized and operationalized. Thus it is probably understandable that no clear consensus has emerged. Some find no significant association between family-planning involvement and adolescent birth rates (Bauman et al., 1977; Morgan, 1983) while others find that family-planning involvement is significantly related to lower teenage fertility rates (Cutright and Jaffe, 1977; Forrest et al., 1981).

As the outcome measure or dependent variable, these studies have focused exclusively on live births and have ignored the pregnancies that ended in abortion or miscarriage. Some studies of SMSAs (Borders and Cutright, 1979) and states (Hansen, 1980; Henry and Harvey, 1982) have considered abortion rates as the primary dependent variable, but they did not include the use of family-planning programs among their predictors nor provide a separate analysis of teenage abortion rates. Westoff et al. (1981) have discussed potential reductions in abortions due to improved contraceptive practice, but they did not directly address the specific role of family-planning programs for teenagers. The choice of an appropriate dependent variable depends to some extent on what one sees as the purpose or aim of providing family-planning services to teenagers. As Tyler has put it:

"If we focus on freedom from unplanned births, then abortion is a means for achieving our goal. If we focus on freedom from unplanned pregnancy, then abortion is a measure of the problem we face, and contraception becomes the solution. . . . While the planned parenthood movement believes in preserving freedom of reproductive choice, the objective of the service program is best measured in terms of preventing unplanned pregnancies, not just unplanned births" (1982:221).

There is general agreement that the goal of organized family-planning programs is to reduce unintended pregnancies among adolescents and that the preferred outcome measure would be the rate of unintended pregnancies to teenagers (Forrest et al., 1981). However, teenage birth rates are more readily available and have been adopted as the primary effectiveness criterion for previous research in this area. While data availability has been seen as the major impediment to a more appropriate analysis, Forrest et al. have argued that "the restriction of the outcome measure to birth rates imposes a more rigorous criterion for program effect than pregnancy rates would have." They conclude that "since fewer than half of the unintended pregnancies prevented by the family planning program would have shown up as births, birth rates [would] show less impact from the program than pregnancy rates" (1981:111). Accordingly, the use of birth rates as the primary dependent variable should produce a conservative estimate of the true family planning program effect: a reduction in births as a result of using family-planning programs should allow us to hypothesize an even larger reduction in total preganancies. The second major purpose of this research is to directly test this hypothesis.

Methods

In this study, the dependent variable is operationalized according to the strategy that Forrest et al. preferred but were unable to pursue with their county-level data. That is, "ideally, the outcome measure in the multivariate analysis would have been the number of unintended pregnacies per 1000 women in a specific population subgroup" (1981:111). The necessary elements to derive total teenage pregnancy rates are (1) births, (2) abortions, and (3) miscarriages. Age-specific live-birth counts and rates are provided on an on-going basis by the National Center for Health Statistics. Information about abortions to teenagers is less accessible. Age-specific abortion counts are provided to the Centers for Disease Control (CDC) but only by 35 of the 50 states.

Another issue concerns the difference between abortion figures based on the place of occurrence and figures according to the place of residence. While the proportion of abortions occurring outside the state of residence is now much lower than before the 1973 Supreme Court abortion decision, there are still some states (i.e., Mississippi, West Virginia, South Dakota, and Wyoming) where abortion rates based on residence are considerably higher than those based on place of occurrence, and other states (i.e., District of Columbia, Kansas, and North Dakota) where abortion rates based on place of occurrence are subtantially above rates based on residence. AGI provides counts and rates by both occurrence and residence but typically does not include the necessary age breakdowns to determine teenage abortion figures by place of residence. However, their Factbook on Teenage Pregnancy (AGI, 1981) and other special tabulations available from AGI do include data on abortions as well as births to teenagers by place of residence. The AGI data is generally more comprehensive and complete than that available from CDC and includes all 50 states and the District of Columbia.

If abortion data are difficult to locate, the necessary information on miscarriages is almost impossible to find. While figures on "fetal deaths" can be found in the Mortality statistics published by the National Center for Health Statistics, reporting covers only still-births and other fetal losses occurring after 22 weeks of gestation. Miscarriages early in pregnancy are not included, and there is significant underreporting even after 22 weeks. AGI estimates miscarriages at 20% of births and 10% of abortions. Accordingly, the total number of pregnancies is given by the following expression: Pregnancies equal 1.2 (births) plus 1.1 (abortions). While interstate variation in teenage miscarriage rates is not captured with this procedure, it probably gives a more accurate estimate of the total number of pregnancies than could be obtained by either ignoring spontaneous abortions or attempting to use the sketchy figures on fetal deaths.

If a primary aim of family planning services to teenagers is to reduce teenage pregnancies, it is possible to assess the effectiveness of such programs by using the same methods and strategies employed in previous studies that have examined the effects of family-planning programs on fertility rates but using, instead, pregnancy rates as the department variable. The general hypothesis for such a study would be that higher levels of involvement in family planning programs would be associated with lower pregnancy rates among teenagers. While there is a general expectation that family-planning use should reduce pregnancy rates, judgments about the effectiveness of the programs must consider the size as well as the direction of the expected effects. Such estimates based on changes in contraceptive method use patterns for teenage family planning patients have been provided by Forrest, et al. (1981) who project between 208 and 272 fewer pregnancies per 1000 teenagers who use family-planning clinics. Forrest (1984) has also used estimates of program effects on birth rates to project a reduction of 282 pregnancies for every 1000 teenage family planning clients. This provides a measure of the hypothesized effect of family planning programs which could be empirically tested. More specifically, if a pregnancy rate is defined as: Pregnancy rate equal pregnancies divided by females age 15-19, 1000, and a family planning utilization rate is defined as: Family planning utilization rate equal teenage family planning patients divided by females age 15-19, 1000, then the (unstandardized) regression of the family planning utilization rate in an appropriately specified model predicting the teenage pregnancy rate should be about −.240. This translates into 240 fewer pregnancies for every 1000 teenage family planning patients if the effects predicted by Forrest et al. (1981) are realized. If these programs have important "spillover" effects such that they encourage more effective contraception among non-clients through outreach or general educational programs, or if they are able to promote better service to teenagers among private physicians, one would expect an even larger negative coefficient, say

−.300. On the other hand, if there are important "substitution" effects such that some teenagers shift from private physicians to clinics as their source of contraceptive services, one would expect a somewhat smaller coefficient, say −.180.

It is important to clearly identify what effects are being estimated and what hypotheses are being tested with this kind of analysis. Since the birth, abortion, pregnancy, and family-planning utilization rates are aggregate figures for states, the coefficients should be interpreted roughly as follows: Controlling for other factors, states with higher rates of teenage involvement in organized family planning programs will have lower teenage birth (or abortion, or pregnancy) rates. The expected difference in birth, abortion, or pregnancy rates will be equal to the product of the appropriate coefficient and the difference in family planning utilization rates. For example, say that only 100 of every 1000 women age 15-19 in State A are enrolled in organized family-planning programs, while 300 of every 1000 from this age group in state B are involved in organized family-planning programs. If the coefficient estimating the effect of family-planning utilization on the teenage birth rate were −.100, then, controlling for other factors affecting adolescent birth rates, state B could expect to have an adolescent birth rate lower than that of state A by a factor of 20 births per 1000 15-19 year-old women. Since the overall teenage birth rate in the United States in recent years has been approximately 50 to 55 births per 1000 15-19 year-old women, this would represent quite a substantial reduction.

Appropriate control variables must also be included in the model in order to minimize the potential bias in estimates of the program effect. While many variables could be examined, there are certain critical socio-demographic variables which we have found most useful for these purposes. In this research, we have used the following as control variables for each state and the District of Columbia:

Poverty: Percent of persons in state below the federal poverty level.

Married: Number of 15-19 year-old women in the state who were married per 1000 women age 15-19 in the state.

Urban: Percent of the state living in urban areas.

White: Percent of state population that is white.

Stability: Percent of state population 14 years and older living in the same house as they did 5 years ago.

In addition to these basic background variables, a measure of prior teenage fertility (for 1970) was also employed in a follow-up analysis to control for the extent to which family planning programs sites may have been specifically located in areas with persistently and historically higher teenage fertility rates.

In this kind of analysis it is also important to weight the state level observations proportionately to the number of young women aged 15-19 in each state. This accomplishes two major functions. First, it allows the overall national birth, fertility, and family planning utilization rates to be recovered directly from the analysis. Secondly, small states with atypical values on the different variables do not unduly influence the results of the analysis. Although unstandardized regression coefficients are less susceptible than certain other parameters to the failure to properly weight the data, the weighted analysis is usually more appropriate when it is possible. The weights for each state level observation in this analysis are defined as: Weight equal women age 15-19 in the state divided by women age 15-19 in all states 51. This constrains the sum of the weights to be equal to the overall number of observations—51 (50 states plus the District of Columbia). Only the results of the weighted analysis are presented in this paper. The critical coefficients from the unweighted analysis were quite similar, although slightly larger in absolute magnitude.

RESULTS AND DISCUSSION

The unstandardized regression coefficient reflecting the family planning program enrollment effect on teenage pregnancies when the control variables are included is .119, significantly different from the expected coefficient of −.240 and also significantly different from the standard null hypothesis of a zero coefficient (see Table 1).

TABLE 1.—REGRESSION ANALYSIS OF 1978 TEENAGE PREGNANCY RATES

	Zero order correlation	Unstandardized coefficient	Standardized coefficient	T-Value
Family planning	0.654	0.119	0.247	[1]3.344
Poverty	.541	.254	.044	.394
Married	.650	.282	.491	[2]5.026
Urban	.147	.295	.246	[1]2.927
White	−.675	−.726	−.304	[1]−3.678
Stability	−.474	−.302	−.209	[1]−2.903

[1]$p<.01$. $p<.001$.

TABLE 2.—REGRESSION ANALYSIS OF 1978 TEENAGE BIRTH RATES

	Zero order correlation	Unstandardized coefficient	Standardized coefficient	T-Value
Family planning	0.340	−0.031	−0.095	−1.580
Poverty	.857	1.333	.345	[1]3.752
Married	.902	.240	.619	[2]7.771
Urban	−.450	−.051	−.063	−.922
White	−.416	−.185	−.115	−1.707
Mobility	.001	.009	.009	.160

[1]$p<.01$. [2]$p<.001$.

TABLE 3.—CORRELATIONS, MEANS, AND STANDARD DEVIATIONS

	Fertility	Pregnancy	Family planning	Poverty	Married	Urban	White	Stability
Pregnancy	0.628							
Planning	.340	0.654						
Poverty	.857	.515	0.398					
Married	.902	.650	.399	0.754				
Urban	−.450	.147	−.050	−.471	−0.404			
White	−.416	−.675	−.450	−.458	−.324	−0.207		
Stability	.001	−.474	−.327	.107	−.132	−0.331	0.138	
Mean	52.45	107.42	125.80	11.40	119.86	74.54	83.21	55.95
Std. Dev	14.45	21.24	43.97	3.71	36.96	17.72	8.90	14.76

The fit of this model for teenage pregnancy was quite good with a multiple correlation coefficient of .920 and a corresponding R-squared value of .846. Using this same model to predict adolescent birth rates produced the results shown in Table 2. The multiple correlation for adolescent fertility was .947 with a corresponding R-squared value of .897. These multiple correlations are somewhat higher than those generally reported for this kind of analysis in previous studies. This may be because we have used states as the unit of analysis, because we have been able to use better data (particularly the AGI abortion and pregnancy estimates), or because we have employed a more useful set of control variables.

In addition to comparisons of the overall fit of the model, the unstandardized regression coefficients representing the effect of family planning enrollment on teenage fer-

tility are quite similar. While not reaching customary levels of statistical significance, our coefficient of −.031 for the effect of family planning enrollment on teenage fertility is quite typical of the effects reported in other such studies. Cutright and Jaffe (1977) found coefficients of −.024 for whites and −.026 for blacks below 200% of the federal poverty level, and coefficients of −.010 for whites and −.032 for blacks above this income level. Field (1981) reported a coefficient of −.047 for out-of-wedlock births. The coefficient found by Morgan (1983) was non-significant and positive and therefore omitted from their final model. With 1970 data, Forrest et al. (1981) found positive coefficients of .071 for whites and .076 for blacks. However, by the mid 1970s, a negative coefficient had emerged for whites (−.023) and the black coefficient had been reduced to .015. Adding prior fertility produced negative coefficients of .024 for whites and −.002 for blacks. Their change score model produced coefficients of −.030 for whites and −.017 for blacks.

This analysis thus confirms the basic finding of a number of previous researchers showing a reduction in the teenage birth rate associated with greater family-planning enrollment of teenagers. The size of that reduction is estimated to be about 30 fewer live births for every 100 teenage family planning program clients. However, using this same analytic strategy with pregnancy rates instead of birth rates as the dependent variable, we find a net increase of about 120 pregnancies among all 15-19-year-old women for every 1,000 teenage family planning clients (see Figure 2), rather than the expected reduction in the adolescent pregnancy rate.

From this data, it appears that previously used projections of pregnancies averted through teenage family planning program involvement may have missed the mark substantially. In particular, the procedure used by Forrest (1984) produces projected effects which are extremely discrepant from the direct empirical estimates of these same program effects. Rather than the projected reduction of 200 to 300 pregnancies for every 1000 teenagers involved in family planning programs, we instead observe an increase of more than 100 pregnancies for every 1000 teenage family planning program clients.

Additional research will be required to verify and make a confident determination of the reasons for these findings. However, we feel that it is critically important to focus on adolescent pregnancy and its major components (births and abortions) in future analysis of the effects of family planning services on adolescent fertility related behavior.

In attempting to understand the unexpected positive correlation between family-planning involvement and teenage pregnancy rates, we have considered various possible explanations. It is unlikely that these results are simply due to large numbers of teenagers using clinics rather than private physicians as their source of contraceptives. Nearly half of all teenage contraceptive clients still receive service from private physicians (Torres et al., 1981). Even if all clinic clients had been diverted from private physicians, we should see a zero coefficient, not a significant positive one.

Also, we found, as did Forrest, et al. (1981), that adding prior fertility to the model did not appreciably change the observed effects. Specifically, for both fertility pregnancy rates, the regression coefficient for prior fertility was nonsignificant and produced only a minor change in the coefficient for family planning program involvement. The negative coefficient predicting teenage fertility from family planning program involvement was reduced only slightly, from −.031 to- .028. The positive coefficient predicting teenage pregnancy from family planning involvement remained statistically significant ($t=2.86$, $P<.01$), and was also slightly reduced, from .119 to .106. The results appear quite similar whether or not prior fertility is incorporated into the model.

There is also the task of reconciling the reduction in the teenage birth rate with the increase in the overall adolescent pregnancy rate. In a related vein, Bauman et al. (1977) found observed reductions in birth rates to be due primarily to abortion rather than to family planning. It is also possible that at least part of the observed reduction of teenage birth rates from adolescent family-planned program involvement may result from higher abortion rates due to more effective referral and counseling by family-planning clinics. Including the teenage abortion rate as an independent variable in predicting adolescent fertility rates produced results consistent with this hypothesis. The abortion rate had a significant independent effect on adolescent fertility ($B=.184$, $t= .204$, $p<.05$). Also, the coefficient predicting adolescent fertility from family-planning involvement was reduced from −.031 to −.004.

This finding concerning the effect of abortion on teenage fertility is similar to effects reported by Bauman et al. (1977), Brann (1979) and Morgan (1983). However, the disappearance of the family planning effect on adolescent fertility when the teenage abortion rate is included among the predictors is different from the findings of Forrest et al. (1981) who also controlled for the abortion rate in their analysis of teenage fertility. Several factors might explain this discrepancy. In addition to their use of counties (or groups of sparsely populated counties) rather than states as the unit of analysis, they also used abortion rates by place of occurrence rather than by place of residence, and rates for all women age 15–44 rather than specific rates for teenagers. Our analysis of age-specific abortion rates by place of residence would be the generally preferred alternative, but such rates have not been consistently available at the county level.

Any assessment of program impact must address certain obvious questions of causal inference. Treating adolescent fertility or pregnancy as a dependent variable and teenage involvement in family planning programs as an independent variable implies a causal model which assumes that higher rates of involvement in family planning programs should produce (cause) changes in the observed levels of teenage childbearing or adolescent pregnancy. Family-planned advocates and researchers in fact usually make this assumption of causal direction. Our analysis has been structured according to this assumption, and our estimates of family-planning program effects on adolescent pregnancy rates have a logical and empirical basis similar to that of earlier estimates (e.g. Cutright and Jaffe, 1977; Forrest et al., 1981) of the effects of family planning programs on teenage fertility rates. The temporal ordering of the family planning involvement measure (1977) with respect to the fertility and pregnancy measures (1978), and the controls for prior (1970) fertility provide additional evidence that this causal assumption is tenable and that the analysis presented here constitutes an appropriate test. Still, we recognize the need for further work and feel that appropriate panel or time-series analyses with more complete models will help to more fully answer the relevant empirical questions and provide better evidence concerning the nature and direction of the critical causal relationships.

One reviewer of this article has pointed out that we have actually estimated three different models with respect to the relationships between teenage family planning utilization, fertility, and abortion rates. These three models are shown in Figure 3. Each of these models tests specific hypotheses of interest to our inquiry. However, some may prefer a more comprehensive "true" model incorporating the essential causal relationships which could be subjected to a direct overall test. Strong theoretical evidence may permit formulation of such a model, which could then be empirically examined to see how well it accounts for the observed data. We look forward to the development and refinement of such models as more attention is directed toward this area.

SUGGESTIONS FOR FURTHER RESEARCH

Since we are unaware of other studies directly examining the relationship between family planning involvement and teenage pregnancy rates (as opposed to teenage fertility rates), replicating these findings would be an important means of increasing our confidence in the parameter estimates reported here. It is a decided advantage that the basic data analyzed here have already been published and are readily available to other researchers who may wish to use additional predictors, other analytic techniques, different model specifications, etc.

While 1978 was the only year for which we were able to locate the necessary data to develop teenage pregnancy rates, estimating the proposed model for prior and subsequent years would provide important corroborative evidence for our basic conclusions. If the necessary data were available at the county (or SMSA) level, we could replicate the study with other units of analysis and perhaps pursue the possibility of certain multilevel contextual effects. A time-series analysis of these issues would also be enlightening. While controlling for prior fertility did not seem to affect the results, applying an appropriate time-series model would help us to understand more about the dynamic nature of the process.

In this study, we have adopted a standard approach of developing pregnancy rates for all women age 15–19. It may be fruitful, if it is possible, to look at pregnancy (and family planning-utilization) rates separately for younger (ages 15–17) and older (ages 18–19) teenagers. It would also be interesting to look at the relationship between pregnancy and family-planning utilization rates separately for married and unmarried teenagers. Freshnock and Cutright (1979) have examined this issue for older women but not for teenagers. In a sense, this method would require converting of one of the variables we have used as a control variable into a group specification variable. The same procedure might be used for urbanization, income, and race. We may also want to compare the effects we have found concerning teenage pregnancy rates with effects of family planning programs on pregnancy rates among older women.

In this paper we have considered the influence of family planning programs in

terms of the number of teenage clients and the corresponding population rates. It may be useful to look at other measures of program output (i.e., percent of clients adopting medical methods of contraception, and/or program and contraceptive method continuation rates). Namerow and Philliber (1982) have reviewed a number of studies of program and contraceptive method continuation among adolescents; and Herold (1981) and Furstenberg et al. (1983) have addressed some of the crucial methodological problems in assessing contraceptive continuation among adolescents. While this work helps us better understand adolescent contraceptive continuation patterns, getting accurate and reliable data in this area remains a major challenge.

It may be useful as well to examine measures of program input and other program characteristics (funding level per client, average clinic size, staff to client ratio, percent of clinics sponsored by hospitals and health departments, etc.) as well as factors thought to be related to the effectiveness of family planning programs for adolescents such as parental notification or consent requirements, laws regulating the availability of contraceptives to minors, policies and guidelines relating to sex education, etc. Hout (1977) has analyzed models of the determinants of general family-planning program activity and overall patient involvement levels. However, studies accounting for program operations directed to teenagers and the relative involvement of teenagers in family-planning programs are still lacking.

In addition to general overall analysis of aggregate variables, research to help explain the underlying generating process is also needed. Survey data can help here, as can studies of clinic participants. However, the power of such designs to capture the various system responses to a rather complex intervention and dissemination strategy is somewhat limited. In one study of 15-18-year-old young women enrolled in a comprehensive health care program, Kastner (1984) found that the perceived level of comfort and logistical access involved in the acquisition of contraceptives was significantly related to greater sexual activity. In contrast, an analysis of individual-level survey data from the 1971 Johns Hopkins study of young women by Moore and Caldwell (1977) found no significant relationship between their measure of overall met need for family-planning in the respondent's state of residence and transition to non-virginity. More appropriate research designs will be needed in order to adequately specify the nature of the generating mechanism responsible for the observed aggregate effects.

Summary and Conclusions

While other studies have assessed the effects of family planning programs serving teenagers on adolescent birth rates, previous projections of the effects of these programs on pregnancy rates have been based on extrapolation from the estimated fertility effects (Forrest et al., 1981; Chamie and Henshaw, 1981; Forrest, 1984). For example, Forrest divides the estimated program effect on teenage births by the proportion of all teenage pregnancies ending in a live birth to derive the projected effect on teenage pregnancies.

Our study provides direct estimates of the effect of teenage family planning program involvement on teenage pregnancy rates as well as on teenage birth rates. A reduction in teenage fertility due to greater adolescent participation in family planning programs similar to that reported by a number of other researchers has been replicated and confirmed. Although the lower fertility may be due to easier access to abortion, the findings of our study and other studies indicate quite clearly that greater teenage involvement in family-planning leads to decreased childbearing among adolescents. However, instead of the expected reduction in overall teenage pregnancy rates, greater teenage involvement in family planning programs appears to be associated with higher, rather than lower, teenage pregnancy rates. The observed effect is dramatically different from one hypothesized on the basis of the expected reduction in adolescent pregnancies due to improvements in contraceptive practice among teenagers attending organized family planning clinics.

We have examined a number of possible explanatons for such a paradoxical result and are anxious to consider other plausible interpretations which might be proposed and empirically tested by other researchers. For example, as we mentioned previously, other control variables could change the relationship we are seeing in this model between family-planning programs and the teenage pregnancy rate. We have tried different control variables (such as education, employment, school enrollment, income, etc.) but so far have not identified a different or better set which substantially change the magnitude or the direction of the relationshp we have reported. Furthermore with the amount of variance explained by this model, it doesn't leave a great deal of room for additional variables to drastically change these aggregate level effects.

Perhaps a different kind of control variable which taps the belief, attitude and value dimension of teenagers would change the results in some way. Unfortunately, these are not readily available on a large-scale aggregate basis. We plan to pursue this possibility in future research.

Another possible explanation for these paradoxical results challenges the traditional assumption that the visibility and accessibility of family-planning programs to teenagers has no influence on sexual activity among adolescents. Although that explanation cannot be examined with this data, neither can it be eliminated. A positive relationship between family-planning enrollment and pregnancy rates (even after including appropriate control variables) could be expected if the programs lead to a greater number of pregnancies through increased sexual activity than are concurrently averted through improved contraceptive practice. That this possibility has been generally dismissed in the past makes it no less important to examine now, as we consider ways to more effectively deal with the problems of teenage pregnancy.

All of these possibilities, of course, must be examined with further research efforts and additional data. Nonetheless, the basic hypothesis tested in this research, that increased family-planning services leads to a reduction in teenage pregnancy rates as intended and projected, was not confirmed. Hopefully, the higher pregnancy rate associated with the increase in family-planning services can be explained.

REFERENCES

Alan Guttmacher Institute, 1981, Factbook on Teenage Pregnancy. New York: AGI.

Alan Guttmacher Institute, 1982, Current Functioning and Future Priorities in Family Planning Services Delivery. New York: AGI.

Borders, J.A. and Cutright, P., 1979, "Community determinants of U.S. legal abortion rates." Family Planning Perspectives 11 (4):227-233.

Bauman, K.E., Anderson, A.E., Freeman, J.L. and Koch, G.G., 1977, "Legal abortions, subsidized family planning services and the U.S. 'birth dearth'." Social Biology 24 (3):183-191.

Brann, E.A., 1979, "A multivariate analysis of interstate variation in fertility of teenage girls." American Journal of Public Health 69 (7):661-666.

Cutright, P. and Jaffe, F.S., 1977, Impact of Family Planning Programs on Fertility: The U.S. Experience. New York: Praeger Publishers.

Chamie, M. and Henshaw, S.K., 1981, "The costs and benefits of government expenditures for family planning programs." Family Planning Perspectives 13 (3):117-124.

Dryfoos, J.D. 1982, "The epidemiology of adolescent pregnancy, incidence, outcomes, and interventions." In I.R. Stuart and C.F. Wells, Pregnancy in Adolescence: Needs, Problems, and Management. New York: Van Nostrand Reinhold Company.

Dryfoos, J.D., 1985, "Availability of family planning and abortion services to teenagers: current status and trends." In P.G. Smith and D.M. Mumford, Adolescent Reproductive Health: Handbook for the Health Professional. New York: Gardner Press.

Field, B.C., 1981, "A socioeconomic analysis of out-of-wedlock births among teenagers." In K.G. Scott, T. Field, and E.G. Robertson, Teenage Parents and Their Offspring. New York: Grune and Stratton.

Forrest, J.D., 1984, "The Impact of U.S. family planning programs on births, abortions and miscarriages, 1970-1979." Social Science and Medicine 18 (6):461-465.

Forrest, J.D., Hermalin, A.I. and Henshaw, S., 1981, "The impact of family planning clinic programs on adolescent pregnancy." Family Planning Perspectives 13 (3):109-116.

Freshnock, L. and Cutright, P., 1979, "The relationship between rates of marital and illegitimate fertility: U.S. 1969." Journal of Population 2 (2):162-180.

Furstenberg, F.F., Jr., Shea, J., Allison, P. Herceg-Baron, R. and Webb, D., 1983, "Contraceptive continuation among adolescents attending family planning clinics." Family Planning Perspectives 15 (5):211-217.

Hansen, S.B., 1980, "State implementation of Supreme Court decisions: abortion rates since Roe vs. Wade." Journal of Politics 42 (2):372-395.

Henry, N.F. and Harvey, M.E., 1982, "Social, spatial, and political determinants of U.S. abortion rates." Social Science and Medicine 16:987-996.

Hermalin, A.I., 1978, "Regression analysis of area data." In C. Chandrasekaran and Hermalin, A.I., Measuring the Effects of Family Planning on Fertility. Dolhain, Belgium: Ordina Editions.

Hernandez, D.J., 1985, Success or Failure? Family Planning Programs in the Third World. Westport, Connecticut: Greenwood Press.

Herold, E.S., 1981, "Measurement issues involved in examining contraceptive use among young single women." Population and Environment 42 (2):128-144.

Hout, M., 1977, "Family planning program activity and patient enrollment rates in the United States, 1969 and 1971." Demography 14 (2):213-222.

Kastner, L.S., 1984, "Ecological factors predicting contraceptive use: implications for intervention." Journal of Adolescent Health Care 5 (2):79-86.

Mecklenberg, M.E. and Thompson, P.G., 1983, "The adolescent family life program as prevention measure." Public Health Reports 98 (1):21-29.

Moore, K.E. and Caldwell, S.B., 1977, "The effect of government policies on out-of-wedlock sex and pregnancy." Family Planning Perspectives 9 (4):164-169.

Moore, K.E. and Burt, M.R., 1982, Private Crisis, Public Cost. Washington, D.C.: The Urban Institute Press.

Morgan, C.S., 1983, "Interstate variations in teenage fertility." Population and Policy Review 2:67-83.

Namerow, P.B. and Philliber, S.G., 1982, "The effectiveness of contraceptive programs for teenagers." Journal of Adolescent Health Care 2 (3):189-198.

Rodman, H. Lewis, S.I. and Griffith, S.B., 1984, The sexual Rights of Adolescents: Competence, Vulnerability, and Parental Control. New York: Columbia University Press.

Tietze, C. 1978, "Teenage pregnancies: looking ahead to 1984." Family Planning Perspectives 10 (4):205-207.

Torres, A., Forrest, J.D. and Eisman, S., 1981, "Family planning services in the United States, 1978-1979." Family Planning Perspectives 13 (3):132-141.

Tyler, C.W., Jr., 1982, "Planned parenthood: ideas for the 1980's." Family Planning Perspectives 14 (4):221-223.

Westoff, C.F., Delung, J.S., Goldman, N. and Forest, J.D., 1982, "Abortions preventable by contraceptive practice." Family Planning Perspectives 13 (5):218-223.

Zelnik, M. and Kantner, J.F., 1979, "contraceptive patterns and premarital pregnancy among women aged 15-19." Family Planning Perspectives 11:287-302.

Mr. HELMS. I thank the Chair.

I thank the Senator from Connecticut.

Mr. WEICKER. Mr. President, I move to table the amendment of the Senator from North Carolina, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Iowa [Mr. HARKIN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Nebraska [Mr. KARNES], the Senator from Idaho [Mr. MCCLURE], and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 21, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—65

Adams	Fowler	Moynihan
Baucus	Glenn	Murkowski
Bentsen	Gore	Nunn
Bingaman	Graham	Pell
Bond	Grassley	Pryor
Bradley	Hatfield	Quayle
Bumpers	Heinz	Riegle
Byrd	Hollings	Rockefeller
Chafee	Inouye	Rudman
Chiles	Kassebaum	Sanford
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerry	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
DeConcini	Levin	Stafford
Dixon	Lugar	Stennis
Dodd	Matsunaga	Stevens
Dole	Melcher	Weicker
Domenici	Metzenbaum	Wilson
Durenberger	Mikulski	Wirth
Exon	Mitchell	

NAYS—21

Breaux	Johnston	Roth
Ford	McCain	Shelby
Gramm	McConnell	Symms
Hecht	Nickles	Thurmond
Heflin	Pressler	Trible
Helms	Proxmire	Wallop
Humphrey	Reid	Warner

NOT VOTING—14

Armstrong	Cranston	Hatch
Biden	Daschle	Karnes
Boren	Evans	McClure
Boschwitz	Garn	Packwood
Burdick	Harkin	

So the motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, any moment, I plan to send an amendment to the desk—assuming that it is in order, and I assume that it is in order—and I would like to take a moment to explain the amendment.

The PRESIDING OFFICER. There is a first-degree committee amendment pending.

Mr. HEINZ. Mr. President, the amendment I will be sending to the desk would appropriate an additional $2 million for certain adoption services, and it would contain an offset in an equal amount of $2 million in order to be budget neutral.

Specifically, the amendment that I plan to send to the desk would add funds to the Adoption Opportunities Program, which is an authorized and existing program and to two newly authorized programs that, to my knowledge, have never been previously funded. Those programs are the Post-Legal Adoption Services Program and the Minority Children's Placement Program. The Adoption Opportunities Program currently authorized at $6 million, and this bill appropriates $5 million for it. Each of the two new initiatives are authorized at $3 million, and this bill does not provide any funds for the two new programs. The $2 million will be divided between the three programs.

Mr. President, those two new programs represent very important initiatives. Those particular programs are designed to help, on the one hand, special needs children, children with physical, mental, and other emotional disabilities, children who have been in foster care, I might add, for a very long period of time in many instances, costing a great deal of money, in particular noninfant minority children—and I do stress this, noninfant—minority children. And then, on the other hand, the second program deals with providing the post-legal adoption services necessary to help keep adoptive families together.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I would like to bring to the attention of my colleagues, and I do beg their indulgence and attention, that even as we all are seated here there are some 36,000 children with special needs waiting to be placed in adopted homes. I might add that there is a stereotype that these kids with developmental disabilities and other handicaps are somehow not adoptable. That stereotype is not only unwarranted, it is untrue, and there are absolutely thousands upon thousands of very successful stories.

The adoptions do not always turn out as well as they should because we do not do a very good job of helping the people who adopt children with special needs understand how to cope with some of the responsibilities that they have been willing to accept.

And I might also add that of those 36,000 children with special needs, some 42 percent of them are minority. I mentioned that some have handicaps, some 37 percent, indeed, are handicapped, and 68 percent of them have been in foster care for 2 years or more, and these children have a median age of some 12 years of age.

Perhaps my colleagues are not particularly familiar with the Adoption Opportunities Program. It is an excellent program because it is based on the premise—a successful one—that no child is unadoptable. The program, of course, is used to help find homes for children in need of permanent adoptive families and to eliminate barriers which might prevent the adoption of children with special needs.

Let me give my colleagues an example. In Philadelphia, Sandra Lawrence adopted Rasheen. Rasheen was adopted when he was 5 years old, some 6 years ago. He was in foster care for the first 5 years of his life. He had a speech problem. He was a slow learner. He is now 11 years old. He is enrolled in a program for gifted children. His parents, his adopted parents, are extraordinarily fond of him, and thanks to the fact that Sandra Lawrence used the services of the Adoption Opportunities Program she was able to find Rasheen and fulfull the ambition of being a mother.

Experience has shown that this is, therefore, an extremely successful program.

At the same time, experience in the form of studies, very careful studies, have shown that the number of minority children in foster care who are legally free and waiting for adopted families is quite disproportionate. More than half of the children who are free or have been free for adoption are of racial or ethnic minority background while the majority of children whose adoptions are finalized, as a matter of fact, have been white.

The Minority Children Placement Program that would receive a modest amount of money from my amendment is designed to try to reverse that trend by increasing the placement of minority children in adopted families with a special emphasis on the recruitment of minority families for minority children. It is not always, I am sorry to say, that way.

In addition to the need to increase minority placements, let me indicate, too, that there is a great need for Post-Legal Adoption Services to help adopted families. What are the Post-Legal Adoption Services?

Mr. President, what I am talking about is the time after which an adoption has been legally achieved, the parent or parents have their new adopted son or daughter and in the case of children with special needs they simply may not have the understanding, the background in order to cope with children who may have a developmental disability.

The reason that we have been heretofore relatively unsuccessful in providing guidance or help for those families that have adopted such a child is that our adoption placement agencies currently work under very limited budgets.

Mr. President, could we have order? There is, I am sorry to say, a good deal of noise on the floor.

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from Pennsylvania.

Mr. HEINZ. I thank my colleagues and the Chair.

Mr. President, as I said, most agencies dealing with adoption, first, have limited budgets, and, second, focus nearly all their efforts on placement, on helping people adopt children, on trying to get some of these very difficult-to-adopt kids out of foster care and placed. They have virtually no money left over for counseling, for advice, so that once an adoption is finalized, the families are left trying to make it on their own and sometimes placements that might otherwise succeed, fail simply because of the lack of support services that could help a family make necessary adjustments.

I have been told by parents of children in my home State of Pennsylvania, those in particular who are trying to maintain a family with a troubled child, that they just have not been able to get the kind of help and advice that they need, except in very rare instances.

In one case, when a family went for advice with a troubled child they had adopted, the advice they got was, "Well, send the child back to the adoption agency."

That, Mr. President, is not the quality of advice that people should be receiving. Funding the Post-Legal Adoption Services Program will indeed make supportive services available to insure that adoptive families stay together. It will enlarge what is currently the small handful—and I do mean handful—of agencies and private therapists who specialize in Post-Legal Adoption Counseling. There are very few of them primarily because there is so little money.

Mr. President, my amendment, as I have described it, will provide some $2 million for what I believe to be absolutely essential, worthy programs.

There is an irony in the fact that we are appropriating in this legislation in excess of $1.1 billion for foster care—$1.1 billion for foster care. I am asking for two-tenths of 1 percent of that amount so that we can place a significant number of the children who are in foster care, some 36,000 of them, and since these are kids who are in foster care for many years, we know that for a fact that foster care is not cheap. If you want to work out the mathematics, if you assume it is $5,000 per child in foster care, and that would be very low—in some States like New York it would be much more than that—you want to assume it is $5,000, we are talking about just on these 36,000 children we are spending $180 million a year. If it is $10,000, we are spending $360 million on these kids to keep them annually in foster care. Remember, the average kid that I am talking about is in foster care a minimum of 2 years. So we are spending huge sums on these children that I have described. Whether it is a quarter of a billion dollars or whether it is a half billion dollars, I am not exactly sure, but it is in that ballpark.

And what I am saying is that the $2 million that I propose that we fund these programs with is an enormously productive, cost-effective, and humane investment.

How do we get the money? I am under no illusions that this Senate is going to waive the Budget Act for $2 million. I do not enjoy proposing offsets, but I think I found one that is acceptable. And that offset is that we reduce the funding—this is what my amendment proposes—that we reduce the funding for the National Institute of Dental Research by $2 million, from $15 million to $13 million, for the studies that are earmarked to conduct behavioral research on dental fear and anxiety.

Now, I have a dentist appointment Wednesday morning at 7:30, and I am just as nervous and fearful about that appointment as the next person. I do not like having my teeth drilled. I do not like having people poke around in my mouth.

I am not opposed to our doing research on how to eliminate my or anybody's else anxieties on that account. But I have to say that, relative to the equities involved, that doing $2 million less in the way of research—we are still going to do 13 million dollars' worth of research—on dental pain, behavior, fear and anxiety is a very reasonable tradeoff, all the more so because, according to the people we have been in touch with at the National Institute for Dental Research, they are getting $1 million more than they asked for, than they think they need. They are not even sure how they are supposed to spend it.

So, it seems to me that, while we are all for scientific and behavioral studies—and that is what these are—given the fact that what we are trying to do is improve the quality of life for people, particularly in this appropriation, who have very real and desperate needs, that the $2 million that I have proposed can be taken, without serious interruption, from the research on dental fear and anxiety and employed quite successfully and many times over, to increase the likelihood that more special needs children like Rasheen, the one I have described a moment ago, can find a home and both be a happier child and make adoptive parents happy and fulfilled, as well.

So, Mr. President, I urge my colleagues to support the amendment.

Mr. President, since I understand the committee amendment is still pending, I ask unanimous consent that I may offer my amendment at this time. If not, I will offer it at another time.

Mr. CHILES. Mr. President, I say to my distinguished friend from Pennsylvania that I think it would be better if he offered it at another time. We are trying to get the committee amendments adopted. We had an objection

to adopting them en bloc, so we are having to take them, so we can open the bill up for amendments. I have been trying to tell Senators that we wanted to adopt those first. I tried to get the Senator's attention when he got the floor, but he got himself warmed up.

Mr. HEINZ. I would be willing, of course, to lay my amendment aside, but I did want to bring it up. I do want to offer it at the most appropriate time. I certainly will do so, because I gather that—well, Mr. President, let me just ask if there is any objection to my offering the amendment at this time. I do not know why there should be, but there may be.

The PRESIDING OFFICER. Is there objection?

Mr. CHILES. I think there is. I think there is a pending amendment. It was amended by the distinguished Senator from North Carolina. His perfecting amendment or his amendment to the pending amendment failed. We are back on the pending amendment and that is where we are.

Mr. HEINZ. Well, I will withhold offering the amendment at this time, Mr. President. We will wait for the appropriate time. I hope it comes soon.

Mr. CHILES. I thank the Senator.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, we just had a vote which was sort of a test vote. As much as anything else, I wanted to hear what the managers of the bill would be saying to the Senators as they came in to vote. As so often happens around this place, very few Senators are on the floor to hear the debate. Some, perhaps many, are listening on their television sets in the office.

But I was struck by the fact that my distinguished friends were saying, "Oh, this just strikes all of title X. Anyway, there is nothing about parental consent in the law."

Well, the fact is that the bureaucrats over at the Department of Health and Human Services have taken care of that. They are allowing the distribution of contraceptives and other materials without the notification of the parents, providing this information and these contraceptives to minors.

The fact is clear: The Federal Government is now actively involved in the distribution of birth control drugs and devices to our Nation's schoolchildren without—I repeat, without—parental consent.

Now, the amendment which I shall send to the desk in just a moment would simply restore to parents the right to decide if their child should receive federally funded contraceptives.

I do not know how the Senators will vote, but this Senator says no.

AMENDMENT NO. 2657

Mr. President, I shall have some more remarks, but just to get the process going, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2657 to the committee amendment on page 20, line 20.

At the end of the pending amendment add the following: *Provided*, That none of the funds made available under this Act or an amendment made by this Act for the Department of Health and Human Services shall be obligated or expended after January 31, 1989, if on that date the Secretary of that Department has not, using existing power, promulgated regulations to prohibit the provision of contraceptive drugs or devices, or prescriptions for such drugs or devices, paid for under this Act to an unemancipated minor without the prior written consent of such minor's parent or guardian, such regulations to include that the term "unemancipated minor" means an unmarried individual who is 17 years of age or under and is a dependent as defined in section 152(a) of the Internal Revenue Code of 1954.

Mr. HELMS. Mr. President, let me first make one matter clear. I am not advocating, nor would I advocate, congressional restrictions on the use of safe conptraceptives by married couples with their own money. The issue here is not whether we will restrict contraceptives, but whether we will have parental involvement when the Federal Government goes into the business of dispensing contraceptives to minors in our communities and in our schools.

Now, just picture the situation, Mr. President, for a moment. A married couple has a family. They worked hard all their lives, paid their taxes, saved their money, tried to instill religious and moral values into their children. And one of those values has got to be that sexual activity should be confined to marriage.

But as the matter now stands, that concept runs full force into the bureaucracy of the U.S. Government through the bureaucrats who have fixed it so that contraceptives are now being distributed to minors without parents' knowledge. And I say that is wrong.

But let us continue the scenario. The young teenager comes in contract with the so-called family planning clinic. This clinic is funded in part with the tax dollars of the parents that I just mentioned hypothetically. The teenager goes to the clinic and he or she is told that the clinic will provide contraceptives, often powerful prescriptive drugs or devices, without the parents being involved whatsoever, without the parents knowing anything about it.

The teenager is told by an agent of the Federal Government that there is no need to worry about what the parents may think, that the dispensing of contraceptives will be kept a secret between the teenager and the clinic.

In effect, Mr. President, what we have now in the Title X Program is this: The Federal Government takes money from the American parents and then uses that money to give contraceptives—often powerful drugs—to their teenager children without notice or consent, all behind the backs of the parents.

Mr. President, this is wrong. This is immoral. And this is evidence of a Federal Government out of control and going far beyond anything the Founding Fathers ever had in mind.

Mr. President, title X shows how the Federal Government has unsurped parental authority and undermined the strength of the family in this country. I will repeat what I said earlier this afternoon. Back in 1970, as a Family Planning Program to assist low-income families, title X was enacted as a part of the whole program to become the Federal program which supplies teenaged America with any and every kind of contraceptive device, all without parental consent, thanks to the Federal Government, parents who are primarily responsible for feeding and clothing their children have absolutely no authority over whether their child should possess, let alone use, contraceptives. It is all in secret.

When the Department of Health and Human Services attempted to turn the tide in 1983 by promulgating parental notification amendments, opponents of the administrative measure claimed that any parental involvement would discourage teenage children from going to family planning clinics to obtain contraceptives, and that the teenage pregnancy rate would reach epidemic proportions. According to this line of reasoning, in order to reduce the pregnancy rate among teenagers, it was imperative for the Government to step in, replace the family, and shield minors from any so-so in the matter by their parents.

But, Mr. President, the past 15 years have proved that this argument about reducing pregnancies is just absolutely inaccurate. Despite total lack of parental involvement in the Federal Government's distribution of contraceptives to minors, the teenage pregnancy and the abortion rates have skyrocketed. Planned Parenthood had its way. The parents were shut out. They were excluded from even any knowledge about what their children were doing.

Between 1971 and 1980, the number of teenage girls who experienced premarital unplanned pregnancies increased by 206.3 percent. The number of illegitimate births among this age group has increased from 190,000 in 1970 to 263,000 in 1980, and abortions among this age group have doubled since 1973 from 232,000 in 1973 to 445,000 in 1980. Furthermore, almost

one-half of all pregnancies among these teenagers are ended in abortion each year.

A number of States repealed their consent laws in the late 1970's, but interestingly enough, Mr. President, there are no studies to my knowledge which show a decrease in the pregnancy rate following the repeal of these parental consent laws. So, Mr. President, there is simply no basis for the argument that allowing parents to decide whether their children should receive contraceptives will cause the teenage pregnancy rate to skyrocket. I think anybody who has ever been a parent knows that. Rather, I am convinced parental involvement will discourage teenage pregnancy and the rates will decline.

Furthermore, opponents of parental consent requirements would have us believe that parental involvement in Federal programs for minors is the exception rather than the rule. But the truth, Mr. President, is quite to the contrary. Except in rare situations, parents are always involved in their children's participation in Federal social programs.

For example, Social Security payments for minors are routinely paid to the parent, not the child. Aid to Families With Dependent Children is paid to the parent, not the child. Even if the dependent teenager is herself a mother, her benefits are added to her mother's payments. Food stamps are paid to the head of household, not the child.

So how could it make sense, Mr. President, that parents, actively involved in all other Federal programs for their children, should be shoved around, pushed aside, when the federally funded benefit for the child happens to be birth control pills or a birth control device?

Now then, Mr. President, in addition, denial of parental consent undercuts the ancient common-law rule that parents must consent to any medical services before their child could receive them. A number of States in this country have codified this rule, as well as rules expanding parental consent requirements to other nonmedical situations, including school trips and school sports, et cetera, et cetera, et cetera.

As a matter of fact, Mr. President, in many States a teacher cannot give a child even an aspirin tablet without first obtaining the parent's permission.

So the teacher cannot give a child an aspirin tablet for a headache, but the teacher can hand out a contraceptive. If that makes sense, I fail to understand how it does. Because where title X contraceptives are involved, the same minor can walk right into the family planning clinic and get any contraceptive device he or she may want without a parent's ever knowing one thing about it.

Obviously, Mr. President, some in this body disagree with me that the parents, and not the Federal Government, should have the final say on whether a minor should get contraceptives, but no one can argue with the health risks associated with oral contraceptive use.

The patient package insert lists 51 physical disorders associated with this contraceptive, including loss of vision; hepatic tumors; breast, cervical, vaginal, and liver cancer; gallbladder disease; a decrease in glucose tolerance; elevated blood pressure; headaches; bleeding irregularities; and depression.

Additional studies have concluded that there exists a significant relationship between oral contraceptive use and breast cancer, particularly if the patient's relatives—aunt or grandmother—has had breast cancer.

One such study, in fact, conducted in 1980, I think it was, concluded: "Family history is a significant factor in the relationship between OC"—that is oral contraceptive—"usage and breast cancer."

Because of these adverse effects, and the real threat of cancer, leaving aside the moral aspects of it all, the FDA has advised physicians to take a complete medical and family history and thorough physical examination before prescribing oral contraceptives. To expect a 13 year old, 14 year old, or a 15 year old to have the requisite knowledge to supply this essential information about family history taxes reality, Mr. President. Parents need to be involved in deciding whether a minor should take oral contraceptives.

That is why I feel so strongly, Mr. President, that this Congress must act now to ensure the health of our children and restore parental rights to monitor the social behavior of their own children.

The pending amendment would do just that and only that, The parents, not the Federal Government, should have the final word on whether a minor should be allowed to be fitted with a contraceptive device or be given birth control pills or whatever.

I think the time is long overdue to end this assault on parental rights, and I do hope my colleagues will think carefully before they vote on the pending amendment.

Mr. HELMS. Mr. President, I thank the Chair, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, if I understand this amendment, it would require the Secretary to issue these regulations prior to any funds being obligated. I think that is a change in the law. I know it is a change in the law.

I think the question is whether we should again be trying to legislate that. When we talk about even written consent, I think that we are trying to micromanage the Department. It seems to me that it would not be wise for us to be trying to do this.

Mr. President, I think I might have a tabling motion that I would like to enter on this, but I will reserve that until I see if the distinguished Senator from Connecticut wants to say anything.

Mr. WEICKER. Mr. President, I will be brief in my comments. It is very easy to trivialize an enormously important program by innuendo, by sensationalistic phrases, words, et cetera. The fact is that title X is a serious attempt to avoid, through education, the problems that associate or can associate with sexual behavior that leads to unwanted pregnancies or leads to many of the other problems which I have alluded to in my past remarks.

I do not know how we start to micromanage here on the Senate floor as to the matter of education. That is a matter best left in the hands of educators, doctors, indeed, those individuals who run the Title X Program.

Now, to say that there is no such thing as a contraceptive or just sort of block it out as if it did not exist, that is educating in ignorance. It is there; it is one tool. It does not guarantee results any more than it protects from disease, but it is one aspect of the Education Program.

My colleagues who feel strongly about the abortion matter—and I respect their beliefs—if they want to avoid the condition that brings on abortion, then they should be the most vigorous advocates for title X. This entire matter has been reviewed in the past and rejected by the U.S. Senate.

I wish it were, I might add, that all teenagers would go to their parents for advice in this area. The fact is they do not, which is why we have title X in the main. They want somebody else to talk to. They prefer to talk to their doctor; they prefer to talk to their teachers. If we did our job as parents, both in terms of inculcating morals in our children and giving them the advice relative to drugs, relative to AIDS, relative to the results of promiscuity, we would not need any of these programs; everything would be OK. But we do not, for a variety of reasons.

Most of them, admittedly, are not excusable, but there are those situations where there is no home. Then who does the job? Who does the job? I hope in that sense we do not try to

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have politicians take on the role of educators and doctors.

We have an administration which admittedly is of a bent closer in philosophy to that of the distinguished Senator from North Carolina than this Senator. Out of the Department of Health and Human Services itself has come the statement that, unlike what was alluded to by the Senator from North Carolina, no, title X is not an abortion advocacy program.

So I hope this program, even though it has its detractors within the administration as it does on the Senate floor, will continue the job which was intended by the Congress of the United States, which is to educate, not to selectively educate, but to educate, to avoid unwanted pregnancies, to give advice when there is pregnancy, and to avoid abortion. That is what is at issue.

If you only want to go ahead and tell half the truth or half the facts, then you are going to be stuck with half the results. I think we all know the tragedy that associates with that. I support the distinguished Senator from Florida. I have nothing further to say.

Does the distinguished Senator from Florida wish to move to table at this time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening with great interest to the debate on this matter. I have been one of those who has stood on the floor of the Senate on numerous occasions during my almost 10 years' service in the Senate with the Senator from North Carolina. He and the Senator from Nebraska have a very similar position on the matter of abortion, and we have voted I suspect quite close when this matter of abortion has come up time and time again. But I cannot be with the Senator from North Carolina on the measure that he just offered, which lost by a substantial vote on the tabling motion, and I cannot be with him on this matter.

I think I know the Senator from North Carolina very well. I think the Senator from North Carolina is very sincere, but being sincere does not make all of his positions right. It seems to me that those of my colleagues who for many years have stood here and tried to do what they could to eliminate Federal funding for abortion would be taking a step in the wrong direction, Mr. President, if we were going to handicap the family planning agencies as to what they could or could not do in this specific area.

I know that it is popular among those who see the abortion question as does the Senator from Nebraska. Maybe it is because I am old-fashioned. Maybe it is because I was brought up that way. But there is just a possibility that I might be right, and all of the popular support for abortions almost on demand to me is wrong. It is equally wrong, I would suggest, for the people who are against abortion, as is this Senator, especially the Federal funding of abortion, to be automatically against any family planning. It does not make any sense. I simply say, Mr. President, that I hope we beat down in overwhelming fashion the amendment offered by the Senator from North Carolina.

There will be some Senators who will join the Senator from North Carolina in his amendment. They will want to vote for it. I hope that every Member of the Senate who supports the Senator from North Carolina on the measure before us does it because of his convictions and not because there are those who are keeping score and will very likely use the votes pro or con on this amendment as a scorekeeping move and then the people will be blanketed that Senator So and So voted against that particular measure. "He voted 10 times in a row," they will say, Mr. President, or 12 or 15 or 20 or however many votes of this type we are confronted with, maybe more, in the Senate today and tomorrow and the next day and the day after that. I simply say that this Senator—and I speak only for myself—is against abortion unless it is for the saving of the life of the mother, unless it is performed as a result of a promptly reported rape, or incest.

People argue with me on that, but that is where I stand. I have always stood there, and I think I always will. But to so hamstring the family planning agencies that they cannot even offer contraceptives of some type to our children I think, if their will would prevail, would result in more and more unwanted and unplanned for babies, and the move for legislation of abortion at any term of a pregnancy therefore would gain speed.

I simply say that we cannot legislate morality even in the Senate, Mr. President. That might come as a shock to some, but I do not think we can. The children of my wife and I are grown and married so I do not have a concern, but I do have a concern with our eight grandchildren. I think if they ever reach a place in their lives where they would need help, they should have it. I would hope that those eight grandchildren of my wonderful wife Pat and I, whom we love very dearly, would go to their mother or father or their church officials or their teachers, but we live in a society today when I am not sure that they are likely to do that.

Excuse the personal note, Mr. President. Let me go beyond that and think of the millions and millions of young people of today living in what most of us would agree is a very permissive society sexually. I for one am not going to cast a vote to say, if they go to a family planning agency, the family planning agency cannot and should not offer them any kind of contraceptive. I think that is not an irrational approach although some people might think it is. It is an approach and a feeling that this Senator has very deep in his heart. I think anyone who is against abortion on the one hand, then is against anybody providing the means where abortions might not be necessary, the means being contraception, has not thoroughly thought through the issue. I hope the Members of the Senate will, when we vote, vote down the amendment offered by my friend from North Carolina.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Nebraska, but as I listened to him I wondered which amendment he was discussing. I do not think he was discussing the pending amendment. But just to make sure, let me read what the amendment says. Before I do so, all it says is that parents have a right to know when Government funds are being used to provide their minor children with contraceptives. That is the full thrust of it. But let me read it into the RECORD again:

> None of the funds made available under this Act or an amendment made by this Act for the Department of Health and Human Services shall be obligated or expended after January 31, 1989 if on that date the Secretary of that Department has not, using existing power, promulgated regulations to prohibit the provision of contraceptive drugs or devices, or prescriptions for such drugs or devices, paid for under this Act to an unemancipated minor without the prior written consent of such minor's parent or guardian, such regulations to include that the term "unemancipated minor' means an unmarried individual who is 17 years of age or under and is a dependent as defined in section 152(a) of the Internal Revenue Code of 1954.

Now, Mr. President, for the last four weeks I have been a little bit under the weather, or at least under doctor's instructions to take it easy. I can tell the Chair that taking it easy is not easy. The minor surgery I had was a piece of cake if you do not like cake. But the long period required by the surgeon for taking it easy—that is to say, to not come back to the Senate—gave me a great opportunity to think about a lot of things. During the period, and particularly last week, I heard a great deal said about the family, and how we must uphold the family. They are very good words, I sat there and I thoughy about it. I said we are getting somewhere, as I heard candidates and others talking about the importance of the family.

This amendment simply asks one question which Senators are going to answer yes or no when they come here to vote. Do parents have the right to decide whether their child should receive a contraceptive? Do they or do they not have that right? I say they do, and especially when the Federal Government is providing the money for the contraceptives. I rest my case. I will, of course, abide by whatever the Senate decides but it seems to me that this matter is so clearcut and so obvious that it ought not take but a moment's hesitation to decide in favor of the parents to make the judgment—not some bureaucrat, not some flunky, but the parents of the children involved.

Otherwise all of this rhetoric about upholding the family is meaningless. If we take that right way away from the parents, then we have disengaged the whole process of upholding the family as the basic unit of our society.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I think I understand the amendment perfectly. I think the Senator from North Carolina knows that the Senator from Nebraska understands the amendment perfectly. I think those who come to cast a vote on this will understand the amendment perfectly because, to use the words of a former President of the United States, it is crystal clear. The amendment offered by the Senator from North Carolina—and the Senator from North Carolina has phrased and put a twist on the amendment. If one did not see through that, one would say, "Why, certainly, a mother or a father or both of them should have the right to counsel their child in matters of this nature." The facts of the matter are they are not in large numbers doing that today.

I would simply say that I do indeed understand the amendment. Contrary to the way the Senator from North Carolina has cleverly phrased it, if this law goes into effect, that is not going to face that child, that 17-year-old girl that is just 1 day over 16, and 16 plus 1 day makes her 17—if she does not go to her parents or her church leaders for advice and counsel, then she has a place through family planning to turn to.

I hope she would take the other route. But I think it is not sound advice—to give to the U.S. Senate—that we should support the amendment offered by the Senator from North Carolina with the hope that we can legislate morality, and we can legislate in the mind of a young 17-year-old who needs some help. I, therefore, hope that this amendment offered by the Senator from North Carolina will be voted down, and we can move ahead in an expeditious fashion on the bill.

Mr. CHILES. Mr. President, I believe that this debate is as old as history and man itself. We have been talking about whether, I think as long as history runs, you should even say the word sex or not. It has been a taboo through the ages. And I guess everybody is pretty well clearly defined about it other than we worry about how we are going to be recorded on one of these votes, and how you are going to trigger some group against you or not. But I think there is one school that feels like you do not speak of it, you do not talk about it, it is supposed to be a taboo, and it is supposed to go away and act as if it just does not happen. Somehow, Mr. President, it does happen. It is the way life is appropriated, and I guess in some ways maybe that is good.

But I think what we have to face up to is really asking ourselves how do we help the situation? Do we help it by putting on the Helms amendment to say you have to have written consent from parents before you can dispense anything, before you can talk about it because we had to go further? The same school of thought would say do not mention the word in school. Do not talk about it. Do not have anything to say about it, and that school believes very strongly that you cause kids to be more active. There are others, and I think I have to put myself in that class that says they are active. They know. They know something. They do not know enough. And they are not getting the kind of wisdom they should be getting at home. If they were, we would not be seeing this explosion of pregnancies that we are seeing.

The question is I think we always tend to again equate ourselves and the population out there as we see our children and we see our own. I do not think we think about if there are kids out there in those schools who really do not have parents the way we think of parents. They do not care about them. They do not talk to them at all. They are not home. Or the homes are broken. It is great to say you are going to get written consent from those. It is never going to happen to be where the pregnancies are occurring. They happen to be out of those kinds of homes. Those are the ones. You know, we can put this in and make ourselves feel moral. I think we certainly will not do anything on the other side.

As I say, I think we all kind of know in our heart of hearts how we ought to stand on it. It is a question of how we want to get recorded. That is another thing. But that is part of this process as well. But, Mr. President, I move to table the Helms amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from South Dakota [Mr. DASCHLE] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from Utah, [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Nebraska [Mr. KARNES], and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska [Mr. KARNES] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 34, are as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—54

Adams	Gore	Moynihan
Baucus	Graham	Nunn
Bentsen	Harkin	Pell
Bingaman	Hatfield	Proxmire
Bond	Heinz	Pryor
Bradley	Hollings	Riegle
Bumpers	Inouye	Rockefeller
Chafee	Johnston	Sanford
Chiles	Kennedy	Sarbanes
Cochran	Kerry	Sasser
Cohen	Lautenberg	Simon
Danforth	Leahy	Specter
Dixon	Levin	Stafford
Dodd	Lugar	Stennis
Durenberger	Matsunaga	Warner
Exon	Metzenbaum	Weicker
Fowler	Mikulski	Wilson
Glenn	Mitchell	Wirth

NAYS—34

Breaux	Helms	Reid
Byrd	Humphrey	Roth
Conrad	Kassebaum	Rudman
D'Amato	Kasten	Shelby
DeConcini	McCain	Simpson
Dole	McClure	Stevens
Domenici	McConnell	Symms
Ford	Melcher	Thurmond
Gramm	Murkowski	Trible
Grassley	Nickles	Wallop
Hecht	Pressler	
Heflin	Quayle	

NOT VOTING—12

Armstrong	Burdick	Garn
Biden	Cranston	Hatch
Boren	Daschle	Karnes
Boschwitz	Evans	Packwood

So the motion to lay on the table amendment No. 2657 was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, on page 20, line 20, insert the language VIII and X, and I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 20, at line 23, amend by adding the language "and title IV of the Health Care Quality Improvement Act of 1986, as amended."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 20, line 25, strike the number $769,554,000 and insert in lieu thereof $1,642,685,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 20, line 26, strike the number $800,000 and insert in lieu thereof $1,000,000.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. On page 21, at line 5, after the word "Act," strike the remainder of that line, all of line 6, all of line 7, all of line 8, and that portion of line 9 through "patients" and add, in lieu thereof:

and of which $20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers: *Provided,*

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 21, at line 22, after the word "Act:" strike the remainder of line 22, all of lines 23, 24, and 25, and on page 22, line 1 and line 2 through the word "appropriation" and add:

Provided further, That amounts received pursuant to these provisions of law in accordance with 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302 and shall remain available until expended: *Provided further,* That the provisions of section 741(i) of the Public Health Service Act shall also apply to schools participating in the Nursing Student Loan Program or lenders participating in the Health Education Assistance Loan Program: *Provided further,*

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 23, line 3, add XVII an XIX.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 23, line 9, strike the number $819,941,000 and insert in lieu thereof $979,357,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 23, line 12, after the word "training," add "of private persons".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 24, line 2, following the word "fees," strike the remainder of line 2, all of line 3, and line 4 through "laboratories."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 24, line 13, add the following language:

Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further,* That the office building at the Centers for Disease Control (CDC) Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, referred to in the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH AND TRAINING APPROPRIATION appearing in Title II of the Departments of Labor, Health and Human Service, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall further provide that title to the build-

ings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL RESEARCH, AND TRAINING (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B).

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 26, line 9, add "and title IV" and then at line 10, strike "$1,489,897,000" and add in lieu thereof "$1,591,036,000; of which at least $75 million shall be available only for cancer prevention and control."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 26, line 14, add "and title IV" and then at line 17 strike the number $1,018,983,000 and insert in lieu thereof $1,056,003,000.

The PRESIDING OFFICER. Is there objection to the consideration of the amendments en bloc? If not, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 26, add, at line 19, "and title IV," and, at line 21, strike the number $127,315,000 and add in lieu thereof $132,578,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

AMENDMENT NO. 2658

(Purpose: To prohibit the use of appropriated funds to require any person or entity to peform, or facilitate in any way the performance of, any abortion)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 2658 to the committee amendment.

At the appropriate place in the pending committee amendment insert the following new section:

SEC. . None of the funds made available under this Act shall be used to require any person or entity to perform, or facilitate in any way the performance of any abortion.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the clerk has read the sum and substance of the amendment. It is very short.

In the view of this Senator, at least, it is not controversial in the sense that it is parallel to the language that this body has adopted on other occasions on other bills.

The amendment would provide conscience clause protection for recipients of funds under this act, and their employees, who refuse to assist in providing abortions. The amendment is similar to a provision applying to the Bureau of Prisons, which this body adopted unanimously last year.

The conscience clause protection for individuals and entities who refuse to engage in abortion-related activity is standard policy in most States. Currently, 44 States protect doctors or organizations who refuse to participate in abortion procedures.

The Federal system also extends considerable protection to those persons and organizations who oppose abortion on principle.

Federal courts have consistently held that individuals and entities may not be compelled to participate in an abortion, and that conscience clauses constitutionally provide protection from such coercion. For example, the Supreme Court, in its 1973 decision in Doe versus Bolton, the companion case to Roe versus Wade, recognized the right of individuals and private hospitals to refuse to perform abortions. The Court noted:

Under section 26-1202(E) the hospital is free not to admit a patient for an abortion. It is even free not to have an abortion committee. Further, a physician or any other employee has the right to refrain, for moral or religious reasons, from participating in the abortion procedure.

These provisions obviously are in the statute in order to afford appropriate protection to the individual and to denominational hospitals.

The Supreme Court, in Poelker versus Doe, specifically addressed the rights of public hospitals to refuse to engage in abortion related activities, and found that such hospitals need not perform abortions.

The most extensive Federal statutory protection can be found under the Public Health Service Act. The 1973 "Church amendment," protects personnel and organizations who receive funds under the Public Health Service Act—including Hill-Burton funds—under the Community Mental Health Centers Act, and under the Developmental Disabilities Services and Facilities Constructions Act. In general, the Church amendment prohibits officials from compelling PHS recipients to perform abortions or sterilization procedures, if doing so would be contrary to the recipient's religious beliefs or moral convictions. The Church amendment also prohibits discrimination against personnel for participation or lack of participation in abortion.

Subsequent statutes provided additional protection, including protection from discrimination based on participation or lack of participation in abortion or sterilization procedures. In addition, the Public Health Service Act Amendments of 1979 bar recipients of Federal funds from denying admission or otherwise discriminating against any applicant for training or study because of the applicant's unwillingness to counsel, suggest, recommend, assist, or participate in performing abortions because of the applicant's religious beliefs or moral convictions.

Other conscience clauses, including that included in the fiscal year 1989 appropriations for the Bureau of Prisons, protect individuals and groups who might otherwise be compelled to facilitate an abortion procedure.

But recipients of funds under the Department of Health and Human Services enjoy only patchwork abortion conscience clause protection, if they are protected at all. Only recipients of funds under the three acts above are protected recipients of funds provided under other acts enjoy no statutory protection. Moreover, recipients of funds under the three acts above provide inadequate protection for recipients who are unable, consistent with their conscience, to counsel, refer, or process papers for abortion.

Mr. President, my amendment, which I have offered, addresses this patchwork approach, with its lack of coverage for Federal employees, military physicians, and certain private grant recipients.

The intention of this amendment is to broaden coverage both in the form of action it protects against, and the scope of abortion-related activity that may be avoided without penalty or discrimination against personnel, whether Federal or private, who declined to

participate in abortion for reasons of ethics or morality or religion.

The amendment pending would prevent the use of funds provided under this bill to discriminate in the employment, promotion, or termination of any person, or extension of staff privileges to any person, because that person refused to engage in abortion related activities that he/she considered a violation of his or her conscience. The amendment would also prevent the use of Federal funds to require any person or entity to perform, or facilitate in any way the performance of, any abortion.

The amendment would apply to department employees, recipients of Federal assistance who refuse to participate, or facilitate in any way the performance of, an aborton, and employees of those recipients.

Facilitation of an abortion would be construed broadly to include abortion related activities including counseling, referral, making arrangements for an abortion, processing papers that would in any way facilitate an abortion, or other abortion related activities.

Mr. President, this amendment is long overdue. As I stated at the outset, the Senate has adopted a number of similar provisions as amendments to various statutes. The Senate has acted wisely in those cases, honoring a long and prudent tradition in this country of respecting conscientious objection to certain activities. One of those activities regarding which we respected conscientious objection is the performance of abortion or of abortion-related activities. And the reason for that, and the reason that is wise and prudent, and the reason, I suppose, that the Senate has overwhelmingly adopted such amendments in the past, is that abortion is a very special kind of activity. It is a very special kind of medical procedure. It is not simply the removal of disease tissue or some kind of therapeutic treatment. It is the termination of a human life.

Senators will disagree, I regret to say, about the significance of that human life. Some feel that it is every bit equivalent to the human life of a child who has just been born or a person who has been living for some period of time. And other Senators have another point of view. But I think the record shows that Senators have been accommodating on this issue, have been broad-minded on this issue, liberal, if you will, on this issue of providing protection to those who cannot involve themselves in abortion or abortion-related activities for reasons of conscience.

There are plenty of reasons, in the view of this Senator and many in this body, for persons to have such objections because, in our view, abortion terminates a human life. To us, that is a great injustice, but that is another case to argue on another day.

The case that we seek to argue tonight is that individuals and entities ought to have the right to decline for reasons of conscience, decline to participate in abortions or in any activities that facilitate the performance of abortions.

That is the sole purpose of the amendment. In short, it reads:

None of the funds made available under this Act shall be used to require any person or entity to perform or facilitate in any way the performance of any abortion.

That is the entire amendment; one sentence.

It is clear; it is clear-minded, I think. It is needed because absent this amendment, persons involved with programs which receive their appropriations under the bill now before us might or might not be protected in the exercise of their conscience in this matter.

In some cases they would. There is sufficient statute in some cases, but in other cases there is not and, in fact, with respect to the programs appropriated by this act, the coverage is rather narrow.

The purpose of the amendment is to broaden it to include all who might be reasonably in need of such protection. I hope the Senate will adopt the amendment.

Mr. WEICKER. Will the distinguished Senator yield?

Mr. HUMPHREY. I will be happy to yield to the Senator or yield the floor.

Mr. WEICKER. The distinguished manager of the bill asked me to inquire of the Senator from New Hampshire whether he would require a rollcall vote on this matter and also whether or not if it were accepted by the manager of the bill whether he would require a rollcall vote as well.

Mr. HUMPHREY. I do not see the need for a rollcall vote. The Senate established its point of view on this issue a number of times. If the managers are willing to accept the amendment, then this Senator does not wish a rollcall vote.

Mr. WEICKER. I know the distinguished manager of the bill is prepared to accept the amendment. I do not want to imply this manager on the minority side is willing to accept it. However, I will certainly defer to the wishes of the chairman of the committee, insofar as the aspect of a rollcall vote is concerned. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, my understanding is this language is similar to the language that is going to appear on the State, Justice, Commerce bill. Under those circumstances, one of our committees is already providing this language on it. I recommend that we accept the language.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WEICKER. I do not agree as to the acceptance of the amendment, but I certainly am satisfied to have a voice vote on it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 2658) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment, as amended, was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 27, line 1, strike "and", and at line 2, strike "communicative".

Mr. President, did the amendment, as amended, include language on line 26 of page 24?

The PRESIDING OFFICER. Is the Senator from Florida referring to line 26 on page 26?

Mr. CHILES. Line 26 on page 26. The Senator from Florida had proposed to include in that amendment to also strike the figure $546,902,000 and insert in lieu thereof $565,908,000. I do not know whether that was included in that amendment or not.

The PRESIDING OFFICER. The Chair will inform the Senator from Florida that has not been included.

Mr. CHILES. Then, Mr. President, at page 26, line 26, strike the figure $546,902,000 and insert in lieu thereof the figure $565,908,000.

Also, Mr. President, at page 26, line 24, add the language "and title IV".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 27, line 1, after "neurological" strike "and", and on line 2, strike "communicative".

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 27, line 3, add after section 301 "and title IV." And on line 4, after "neurological," strike "and communicative," and at line 5, strike the figure $557,046,000 and insert in lieu thereof the figure $477,878,000.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 27, after line 5, add new language,

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorder, $96,100,000.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 27, line 13, add "and title VI," and at line 15, strike the figure $732,453,000 and add in lieu thereof the figure $758,352,000.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 27, line 17, add "and title IV" and at line 19 strike the number "$623,087,000" and add in lieu thereof "$690,653,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. BYRD. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 27, line 22, add "and title IV" and at line 24, strike the number "$407,650,000" and add in lieu thereof "$431,388,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. BYRD. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, on page 28, at line 2, add the language "and title IV" and on line 4 strike the number "$228,235,000" and add in lieu thereof "$234,218,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. BYRD. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 28, line 7, add "and title IV" and on line 9 strike the number "$216,985,000" and add in lieu thereof "$223,168,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. On page 28, line 11, add "and title IV" and on lines 12 and 13 strike the number "$202,096,000" and insert in lieu thereof "$225,578,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 28, line 16, add "and title IV" and at line 18 strike the number "$156,174,000" and insert in lieu thereof "$161,931,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 28, line 20, add "and title IV" and at lines 22 and 23, strike the number "$355,767,000" add in lieu thereof "$367,987,000, of which $10,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes:"

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 29, line 7, add "and title IV" and at line 9 strike the number "$27,417,000" and insert in lieu thereof "$28,107,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 29, line 12, strike the number "$16,074,000" and insert in lieu thereof "$16,474,000" and at line 14 add "for maintenance and operation of the Gorgas Memorial Laboratory."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CHILES. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 29, line 17, add "and title IV" and at line 19 strike the number "$64,836,000" and insert in lieu thereof '$70,626,000."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WEICKER. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, at page 29, line 22, strike the number "$71,578,000" and insert in lieu thereof "$65,578,000" and at line 24 add "*Provided further,* That $6,000,000 of this amount be used to support an additional 200 full-time equivalent positions [FTE's] for a total of no less than 13,102 FTE's to be distributed throughout the National Institutes of Health."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WEICKER. I move to reconsider the vote by which the committee amendments were agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF SSIG FUNDING

Mr. EXON. Mr. President, I would like to discuss with the distinguished chairman of the Labor-HHS-Education Appropriations Subcommittee my concern over the funding level for the SSIG Program.

As the chairman knows, I have expressed my concern on this issue before. A $30 million reduction in the State Student Incentive Grant [SSIG] Program will have a severe impact on postsecondary educational assistance for students in my State of Nebraska and elsewhere in this country. This is a 41-percent reduction.

The SSIG Program provides funding to States for the establishment and continuation of State grant programs. States must match, at least, dollar for dollar, the Federal SSIG funds. By virtue of this State match requirement students receive a minimum of $2 for every dollar of Federal money appropriated for this program. That is a bargain at any time, but it is especially important in this time of spiraling education costs and the dwindling availability of affordable financial assistance.

Mr. CHILES. My colleague from Nebraska is correct. The SSIG Program was designed to create incentives for the States to fund their own educational assistance programs. These grants are need-based and awarded at the discretion of the State agency administering the program. Last year, total State grant payout was over $1 billion, of which $76 million was from Federal appropriations. Many States have mature State grant programs and consistently overmatch the Federal payment. However, I know that Nebraska and many other States are still at or near the 50-50 match. In that respect, I understand the concerns of my friend, the senior Senator from Nebraska. There is little doubt that if Federal funding is reduced, many of these 50-50 States may also reduce their share of the funding. Under these conditions, States like Nebraska could lose not 41 percent of their funding, but closer to 82 percent of their funding.

Mr. EXON. That is absolutely correct. Earlier this year, during debate on the trade bill, one of the themes of this Chamber was education. Why are we not willing to back our rhetoric with definitive action? Restoring funding to the SSIG Program would send a message loud and clear to the States that education is important. If we are not willing to back this program, why should we expect the States to do so?

Part of the argument for decreasing the funding for this program is that the program achieved its objective long ago. I submit that this is not true. Currently one-third of the States only match dollar-for-dollar or barely overmatch the Federal SSIG contribution. If this program achieved its objective years ago, then why are so many States still so dependent on Federal SSIG money to support State grant programs? In all States, SSIG funding provides a powerful incentive for States to help its needy student and increase its commitment to higher education. This program is just beginning to prove its success and effectiveness. Why cut it now?

As the Senator from Florida is aware, I had intended to offer an amendment to recover the $30 million that was cut from this program; however, that would require offsets which are not readily available in an already slim appropriations bill. While there are programs in this bill I consider less vital than SSIG, I realize that my colleagues may not share my views.

I also realize as much as anyone in this body that we are facing an extremely difficult budget era. However, as a member of the Budget Committee, I also know that the 302(b) allocation for this subcommittee was way below the recommendation of the congressional budget resolution. The House Labor-HHS appropriations bill has $350 million more in education funding than the Senate bill. Mr. Chairman, I respectfully ask for your commitment that you and the other Senate conferees will work to increase SSIG funding to at least current levels during the conference committee consideration of this bill.

Mr. CHILES. Mr. President, I believe that I can make that commitment to my colleague from Nebraska. I know how much he supports this program. I appreciate the cooperation of the Senator from Nebraska on this issue and will do what I can to accommodate his request in conference.

UNANIMOUS-CONSENT AGREEMENT—COMMITTEE AMENDMENTS TO H.R. 4783

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with certain exceptions as follows:

On page 8, line 5 through line 14 on page 10; page 51, lines 7 through 10; page 56, lines 1 through 17; page 56, lines 17 through 25, and page 57, lines 1 through 4; page 30, lines 7 and 8; page 30, lines 14 through 19; page 32, lines 4 and 5; page 32, line 13; page 33, lines 23 through 26; page 34, line 5; page 35, line 4; page 35, line 5; page 35, line 19 through page 36, line 3; page 38, line 3; page 38, lines 24 and 25, and page 39, lines 1 and 2; page 39, line 9; page 39, line 21; page 39, lines 25 and

26; page 40, lines 7 through 16; page 40, line 20; page 40, line 23; page 46, lines 2 and 3; page 49, lines 4 through 25, and page 50, lines 1 through 5.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. CHILES. Mr. President, I move that the bill, as thus amended, be considered as original text for purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed at any time to the consideration of the bill that is now pending, H.R. 4783, the labor, HHS, and educational appropriation bill.

The PRESIDING OFFICER. Without ojection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

SENATOR JESSE HELMS

Mr. DOLE. Mr. President, I have included in the RECORD earlier today a statement welcoming back my colleague and friend, Senator JESSE HELMS, who has been out for 2 or 3 weeks because of surgery. He is fully recovered, as he has already demonstrated today. He is back on the floor and back on his feet.

I would just indicate, as I did in my statement, that JESSE does not like to miss votes, so you know it was important when he missed a vote. He has had almost perfect attendance in this Chamber except in those rare cases where he has had to be absent several years ago because of a back operation and this time because of other surgery.

So, again, we welcome him back.

UNITED STATES-CANADA FREE TRADE AGREEMENT

Mr. DOLE. Mr. President, I am pleased to join the distinguished majority leader in sponsoring the legislation the President has sent us today to implement the free trade agreement between the United States and Canada.

It is easy to characterize this agreement as historic. It truly is historic in the sense that it is the most comprehensive bilateral trade agreement ever negotiated. And it is a good agreement that should result in substantially increased economic activity, more jobs, and enhanced competitiveness for both the United States and Canada.

Nevertheless, soon after the agreement was made public, it became obvious that there were a number of issues that needed to be clarified to assure that the agreement would be as fair as possible to both countries. The administration has made every effort to make certain that we would have the opportunity to comment on these issues, and this legislation reflects most of the concerns that we expressed.

I hope that we will be able to build on this agreement in the future. There is more that should be done. But this implementing legislation is an important step in its own right and deserves to be enacted.

We have little time left this year. Since this will be treated as a revenue measure, the House will have to act first. By law, they will have 60 days to complete committee and floor action. The Senate will have 15 days for committee action and 15 additional days for floor action. But we all know that, in reality, we have less time than that remaining this year.

According to the press reports, this agreement is having some difficulties in Canada. They have interests there who must fear that we may have got more out of the agreement than they have. That might come as a surprise to some of us if we relied solely on the expressions of concern from some interests in the United States. But it probably means that we have a pretty good agreement—one that is fair to both countries.

I would hope that we can act expeditiously to show our commitment to better trade relations with our largest trading partner and our commitment to improved economic activity in both the United States and Canada.

I know the majority leader does plan to move to this fairly soon. I know it is having some difficulty in Canada, but perhaps if we could move expeditiously here, as I know the majority leader will, it might be of some help to those who support this very important agreement in Canada.

There are a number of issues that have been resolved, a number of issues raised by Members on both sides of the aisle and by those who have an interest outside of the Congress, around the country. I think this legislation now is in pretty good shape and I hope the Senate would give its approval at the earliest possible time.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on July 14, 1988, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

S. 2527. An act to require advance notification of plant closings and mass layoffs, and for other purposes.

Under the authority of the order of the Senate of February 3, 1987, the enrolled bill was signed on July 21, 1988, during the adjournment of the Senate, by the Deputy President pro tempore [Mr. MITCHELL].

MESSAGES FROM THE HOUSE

At 1:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4848. An act to enhance the competitiveness of American industry, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 4264. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S.J. Res. 318. Joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; and

S.J. Res. 338. Joint Resolution to designate August 1, 1988, as "Helsinki Human Rights Day."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time, and placed on the calendar.

S.J. Res. 351. Joint resolution to advance democracy in Nicaragua.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on July 22, 1988, he had pre-

sented to the President of the United States the following enrolled bill:

S. 2527. An Act to require advance notification of plant closings and mass layoffs, and for other purposes.

The Secretary of the Senate reported that on today, July 25, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 318. Joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; and

S.J. Res. 338. Joint resolution to designate August 1, 1988, as "Helsinki Human Rights Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3594. A communications from the Secretary of Agriculture, transmitting, pursuant to law, the fourth quarterly commodity and country allocation table; to the Committee on Agriculture, Nutrition and Forestry.

EC-3595. A communication from the President of the National 4-H Council, transmitting, pursuant to law, the 1987 annual report; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3596. A communication from the Chief Scientist, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Agency requests for appropriations to support Marine Pollution Research, Development, and Monitoring for the fiscal year 1989; to the Committee on Appropriations.

EC-3597. A communication from the Director, Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report with information on real and personal property of the Department of Defense of September 30, 1987; to the Committee on Armed Services.

EC-3598. A communications from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, the Air Force's proposed Letter to Offer to the United Kingdom for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3599. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the Air Force's proposed Letter to Offer to Egypt for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3600. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the Air Force's proposed Letter to Offer to Egypt for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-3601. A communication from the Chairman of the Board of Governors of the Federal Reserved System, transmitting, pursuant to law, the System's monetary policy report; to the Committee on Banking, Housing, and Urban Affairs.

EC-3602. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; to the Committee on the Budget.

EC-3603. A communication from the Inspector General of the Department of Treasury, transmitting, pursuant to law, a copy of an Internal Revenue Service Internal Audit Report entitled "Review of Reimbursable Superfund Costs—Fiscal Years 1984 through 1987"; to the Committee on Environment and Public Works.

EC-3604. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report of demonstration activities; to the Committee on Finance.

EC-3605. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, the Twelfth Annual Report on the Child Support Enforcement program; to the Committee on Finance.

EC-3606. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on the efforts to persuade members of the Multilateral Investment Guarantee Agency to adopt policies and procedures set out in the 1988 Continuing Resolution; to the Committee on Foreign Relations.

EC-3607. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the status of U.S.-Soviet discussions on the conflict in Angola; to the Committee on Foreign Relations.

EC-3608. A communication from the Assistant Director for Administration of the National Science Foundation, transmitting, pursuant to law, copies of a new system of records in accordance with the Privacy Act; to the Committee on Governmental Affairs.

EC-3609. A communication from the Executive Secretary of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, copies of a new system of records in accordance with the Privacy Act; to the Committee on Governmental Affairs.

EC-3610. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, copies of a new system of records in accordance with the Privacy Act; to the Committee on Governmental Affairs.

EC-3611. A communication from the Director, Administration and Management, Department of Defense, transmitting, pursuant to law, copies of a new system of records in accordance with the Privacy Act; to the Committee on Governmental Affairs.

EC-3612. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Attracting Quality Graduates to the Federal Government: A View of College Recruiting"; to the Committee on Governmental Affairs.

EC-3613. A communication from the Chairman of the United States Sentencing Commission transmitting, pursuant to law, a report summarizing the activities of the Commission in its second year of operation; to the Committee on the Judiciary.

EC-3614. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of a document entitled "Institutional Eligibility Final Regulations"; to the Committee on Labor and Human Resources.

EC-3615. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled "Final Regulations for the Educational Research Grant Program"; to the Committee on Labor and Human Resources.

EC-3616. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the 1987/88 Annual Report of the Presidential Advisory Committee On Small and Minority Business Ownership; to the Committee on Small Business.

EC-3617. A communication from the President of the United States, transmitting, pursuant to law, a report on an incident in the Persian Gulf involving United States military personnel; to the Committee on Foreign Relations.

EC-3618. A communication from the President of the United States, transmitting, pursuant to law, the final legal text of the United States-Canada Free Trade Agreement; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2631. A bill to provide drought assistance to agricultural producers, and for other purposes (Rept. No. 100-426).

Mr. LEAHY. Mr. President, it certainly comes as no surprise to my colleagues that the country has been going through one of the worst droughts in its history. In fact, it is the worst drought occurring this early in the year in my lifetime.

I know the distinguished Presiding Officer's own State has been seriously hurt. In part, I know that because of the strong expressions of concern the distinguished Presiding Officer and his distinguished colleague have made to me about the situation in Illinois and, as we have seen, in so many other States.

Mr. President, just before we recessed a week ago, Senator LUGAR and I introduced a bipartisan bill on drought relief. Almost half the Senate has joined with us in cosponsoring that bill. The cosponsors have given more than their names to this legislation. They have contributed a great deal of wisdom about what should be in the bill. In n any ways, you could say a fair number of Senators on both sides of the aisle are the architects and writers of that bill.

Mr. President, I want to inform all Senators about the progress of this bill. We will file with the Senate the Drought Assistance Act of 1988 this afternoon. In fact, I ask unanimous consent that in conjunction with my remarks today I be allowed to file the report and the Drought Relief Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the week before we left, the Agriculture Committee reported this drought bill. We did it after three marathon sessions. I

must note that all Senators of the committee were willing to stay around the clock, if necessary. The staff worked throughout the weekend. It was one of the best examples of bipartisan cooperation I have seen. At the end of that week, we have produced a good piece of drought legislation.

When the committee began considering this bill, I said to the committee that this is a bill that had to be reported quickly. We have farmers and ranchers throughout this country who are facing disaster. We want them to face hope. We want them to know that no matter how bad it is, next spring they will still be in business, they will be putting in new crops, and they will be harvesting the crops they are unable to harvest this year.

We can give them the hope in this bill, and offer that hope because drought-stricken farmers need hope. They cannot count on press releases or simple expressions of concern from around the country, even though I think most of the country feels great concern for them. They need to know real legislation is moving. They need to know how much aid it will give to farmers.

I can say, Mr. President, that I am absolutely certain that they can count on at least the aid that is in the drought relief bill which is being reported to the Senate this afternoon.

I have discussed this with the Senate majority leader. He has agreed to put this bill on as fast a track as possible. I hope that all Senators will join with us in giving the distinguished majority leader unanimous-consent agreements for as short a time agreement as possible. If we did that, it is possible we could be up as early as Wednesday.

I am committed to moving this bill through the Senate, and I am committed to moving it through conference as quickly as possible. I need my colleagues' cooperation. I am willing to work with any Senator on either side of the aisle to this end. We cannot let this bill become a Christmas tree. This bill is for drought relief. This bill is not for the relief of every concern known to Senators. It is not going to be a Christmas tree. The bill is not going to be a catchall bill. It is not going to be a new farm bill. It is going to be a drought relief bill for the farmers and ranchers who need it today.

There will be a farm bill next year. Let us look to that for changes in farm policy. Let us look at this bill for drought relief.

We have to send a message of hope to American farmers and ranchers. With this bill, we do send that message of hope. We tell them: "You will be in business next year. The people of this country are committed to keeping you there. We will keep you there."

I am also very pleased that when Senator LUGAR and I met with President Reagan a couple weeks ago, he said that he would sign this bill if we get it through. I think we can. I think we can have it on the President's desk this month if we continue to have the bipartisan cooperation in this body and the cooperation we received in the other body. If we do, a very vital segment of our population—the farmers and ranchers of this country—will know that when the Government says it will act, when it promises relief, it really means it.

Mr. President, I send a copy of the bill as reported to the desk.

Mr. President, I have a complete list of cosponsors which are as follows:

Mr. Leahy (for himself, Mr. Lugar, Mr. Melcher, Mr. Dole, Mr. Pryor, Mr. Cochran, Mr. Boren, Mr. Boschwitz, Mr. Heflin, Mr. McConnell, Mr. Harkin, Mr. Bond, Mr. Fowler, Mr. Wilson, Mr. Daschle, Mr. Karnes, Mr. Breaux, Mr. Durenberger, Mr. Riegle, Mr. Grassley, Mr. Simon, Mr. Pressler, Mr. Gore, Mr. Kasten, Mr. Stennis, Mr. Quayle, Mr. Exon, Mrs. Kassebaum, Mr. Bentsen, Mr. McClure, Mr. Dixon, Mr. Danforth, Mr. Moynihan, Mr. Heinz, Mr. Metzenbaum, Mr. Burdick, Mr. Sasser, Mr. Conrad, Mr. Kennedy, Mr. Levin, Mr. Specter, Mr. Rockefeller, Mr. Wallop, Mr. Ford, Mr. Sarbanes, Ms. Mikulski, and Mr. Shelby).

Mr. LEAHY. Mr. President, on behalf of the Committee on Agriculture, Nutrition, and Forestry, I am submitting the attached program allocation pursuant to section 302(b) of the Congressional Act, based on the resolution adopted on June 6, 1988.

I ask unanimous consent that the committee's section 302(b) program allocation and program account assignments be printed in the RECORD.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

AGRICULTURE, NUTRITION, AND FORESTRY COMMITTEE
302(b) ALLOCATIONS

Program	Budget authority	Outlays
Rural development, electric and telephone programs—Direct spending	$1,416	$946
Cons., land management and forestry programs—Direct spending	579	575
FmHA and farm credit programs—Direct spending	3,904	2,851
Farm and commodity programs—Direct spending	16,856	16,777
Ocean freight differential—Direct spending	69	69
Nutrition and fin. asst.—Entitlements funded in appns accnts	17,961	18,021
Committee total—Direct spending	22,824	21,218
Committee total—Entitlements funded in appns accnts	17,961	18,021

ACCOUNT CODES INCLUDED IN PROGRAM DESIGNATIONS

Rural development, electric and telephone programs—Direct spending:
12 4230 0 3 271 BD1 2064.
12 4230 0 3 271 BD3 2064.
12 4230 0 3 271 FA2 2064.
12 4231 0 3 452 BA1 2064.

Cons., land management and forestry programs—Direct spending:
12 8210 0 7 301 BC1 2064.
12 5219 0 2 302 BA1 2064.
12 8028 0 7 302 BC1 2064.
12 8210 0 7 302 BC1 2064.
12 9922 0 2 302 BA3 4264.
12 9921 0 2 806 BA1 2064.

FmHA and farm credit programs—Direct spending:
12 4140 0 3 351 BA1 2064.
12 4140 0 3 351 FA3 2064.
78 4131 0 3 351 BD1 2064.
12 4155 0 3 452 BD1 2064.
12 4155 0 3 452 FA3 2064.

Farm and commodity programs—Direct spending:
12 4336 0 3 351 BA1 2064.
12 4336 0 3 351 FA2 2064.
12 5210 0 2 351 BA1 2064.
12 1500 0 1 352 BA1 2064.
12 5070 0 2 352 BA1 2064.
12 8137 0 7 352 BC1 2064.
12 8203 0 7 352 BC1 2064.
12 8214 0 7 352 BC1 2064.
12 8218 0 7 352 BC1 2064.
12 8227 0 7 352 BC1 2064.
12 8232 0 7 352 BC1 2064.
12 9971 0 7 352 BC1 2064.
12 9972 0 7 352 BC1 2064.

Ocean freight differential—Direct spending: 69 1751 0 1 403 BA1 2064.

Nutrition and fin. asst.—Entitlements funded in appns accnts:
20 1850 0 1 351 AA1 RDRD.
12 3502 0 1 605 AA1 RDRD.
12 3505 0 1 605 AA1 RDRD.
12 3539 0 1 605 AA1 RDRD.
91 9191 0 1 605 FA2 RDRD.
91 9191 0 1 950 FA7 APRD.

Mr. LEAHY. Mr. President, I also take the opportunity, once again, to thank Senator CHILES on his efforts to obtain the additional funding needed to provide for the improvements in the nutrition programs. I expect to take the nutrition improvements bill to the floor very soon. That action would not have been possible without the chairman of the Budget Committee, Senator CHILES' hard work.

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 475. A joint resolution to designate October 1988 as "Polish American Heritage Month."

S. Res. 432. A resolution to honor Eugene O'Neill for his priceless contribution to the canon of American literature in this the one-hundredth anniversary year of his birth.

S.J. Res. 141. A joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

S.J. Res. 169. A joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

S.J. Res. 248. A joint resolution to designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week."

S.J. Res. 261. A joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

S.J. Res. 263. A joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week."

S.J. Res. 272. A joint resolution to designate November 1988 as "National Diabetes Month."

S.J. Res. 273. A joint resolution designating October 6, 1988, as "German-American Day."

S.J. Res. 289. A joint resolution to designate the month of November 1988 as "National Hospice Month."

S.J. Res. 290. A joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week."

S.J. Res. 294. A joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

S.J. Res. 295. A joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

S.J. Res. 298. A joint resolution designating September 1988 as "National Library Card Sign-Up Month."

S.J. Res. 302. A joint resolution to designate October 1988 as "National Down Syndrome Month."

S.J. Res. 303. A joint resolution to designate the month of October 1988 as "National Lupus Awareness Month."

S.J. Res. 306. A joint resolution designating the day of August 7, 1989, as "National Lighthouse Day."

S.J. Res. 312. A joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

S.J. Res. 315. A joint resolution designating 1989 as "Year of the Young Reader."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and an amended preamble:

S.J. Res. 319. A joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 320. A joint resolution to commemorate the fiftieth anniversary of the passage of the Food, Drug, and Cosmetic Act.

S.J. Res. 322. A joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week."

S.J. Res. 324. A joint resolution to designate February 1989 as "America Loves Its Kids Month."

Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and with a preamble:

S.J. Res. 325. A joint resolution designating the third week in May 1989 as "National Tourism Week."

Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 328. A joint resolution to designate the day of September 14, 1988, as "National Medical Research Day."

S.J. Res. 329. A joint resolution to designate October 24-30, 1988, as "Drug Free America Week."

S.J. Res. 330. A joint resolution to provide for the designation of September 16, 1988, as "National POW/MIA Recognition Day."

S.J. Res. 332. A joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week."

S.J. Res. 333. A joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 335. A joint resolution to designate the last full week of October, October 23 through October 29, 1988, and the last full week of October hereafter as "National Adult Immunization Awareness Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 336. A joint resolution designating October 16, 1988, as "World Food Day."

S.J. Res. 342. A joint resolution to designate the week of November 28 through December 5, 1988, as "National Book Week."

S.J. Res. 345. A joint resolution to designate October 8, 1988, as "National Day of Outreach to the Rural Disabled."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary:

Richard L. Voorhees, of North Carolina, to be United States District Judge for the Western District of North Carolina;

Karl S. Forester, of Kentucky, to be United States District Judge for the Eastern District of Kentucky;

Fern M. Smith, of California, to be United States District Judge for the Northern District of California; and

Jan E. Dubois, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

By Mr. PELL, from the Committee on Foreign Relations:

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia (Exec. Rept. No. 100-18):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert S. Gelbard.

Post: Bolivia.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names—Alexandra P. Gelbard: None.

4. Parents—Ruth and Charles Gelbard: None.

5. Grandparents Names—Pearl and Barnett Fisher, deceased; Mariam and Nathan Gelbard, deceased.

6. Brothers and Spouses Names—Nicholas and Karen Gelbard: None.

7. Sisters and spouses: N/A.

Christopher W.S. Ross, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria (Exec. Rept. No. 100-19):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Christopher W.S. Ross.

Post: American Ambassador to Algeria.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names—Anthony G. Ross, no spouse: None.

4. Parents Names—Claude G. and Antigone A. Ross: None.

5. Grandparents Names—Grace Ross: None. All other grandparents deceased.

6. Brothers and Spouses Names: Geoffrey F. Ross, no spouse: None.

7. Sisters and spouses: None.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (for himself, Mr. KASTEN and Mr. MATSUNAGA) (by request):

S. 2650. A bill to establish the National Park of Samoa; to the Committee on Energy and Natural Resources.

By Mr. BYRD (for himself and Mr. DOLE) (by request):

S. 2651. A bill to implement the United States-Canada Free-Trade Agreement; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Energy and Natural Resources and the Committee on Finance, jointly pursuant to 19 U.S.C. 2191(c).

By Mr. HEINZ:

S. 2652. A bill relating to the treatment of certain State plans under section 72(e) of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. SASSER (for himself and Mr. GRAHAM):

S. 2653. A bill to establish a National Commission on the Thrift Industry; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself, Mr. KASTEN, and Mr. MATSUNAGA):

S. 2650. A bill to establish the National Park of Samoa; to the Committee on Energy and Natural Resources.

NATIONAL PARK OF SAMOA

● Mr. JOHNSTON. Mr. President, I am pleased to introduce legislation at the request of my good friend, the Governor of American Samoa, A.P. Lutali, and to ini^iate its consideration in the U.S. Senate. The House companion measure, H.R. 4818, was introduced on June 14, 1988. Regrettably, it is late in the legislative session and I do not see the possibility of enacting this proposal in the 100th Congress. This is a major piece of legislation which would add a new unit to the National Park System. There is simply insufficient time to give it full consideration; particularly in light of the many public lands bills already under consideration by the Committee on Energy and Natural Resources. Nevertheless, I believe that it is useful to have the bill introduced and to initiate its consideration.

Because the Governor is a man known for his eloquence, I believe it would be appropriate that I ask unanimous consent to have the Governor's letter to me on this proposal placed in

the RECORD at this point. His remarks on behalf of this legislation best present the benefits and importance of this legislation to the people of American Samoa, and to the rest of the Nation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TERRITORY OF AMERICAN SAMOA,
OFFICE OF THE GOVERNOR,
Fagatogo, June 27, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirkson Building, Washington, DC.

DEAR SENATOR JOHNSTON: On behalf of the people of American Samoa, I respectfully request that you introduce the attached legislation, a bill establishing the National Park of Samoa, into the United States Senate. I will be asking Senator McClure, Senator Inouye, and Senator Matsunaga to serve as cosponsors. Since American Samoa has no representative in the Senate, your leadership and the support of the Senate Energy Committee will be crucial in presenting this important legislation for consideration of the entire Senate.

The people of American Samoa are very desirous of having a portion of our precious tropical rainforests and coral reefs protected by National Park Status. The Samoan culture has always regarded our rain forests and coral reefs as priceless and irreplaceable. Indeed the conservation ethic of the National Park System is relatively modern, compared to the conservation ethic of Samoa. Unlike continental peoples, who could always move to a new frontier, our ancestors were bound by the limits of their islands home.

It is because of the foresight of our ancestors that we retain today a primeval rainforest that truly merits National Park Status. Indeed if the Senate passes this legislation, this Park will be the only National Park in the world that has within its boundaries the two most complex and least understood natural ecosystems: tropical moist forest and coral reefs. In a world in which 100-200 square kilometers of tropical rainforest vegetation disappears each year, our Samoan rain forests become increasingly valuable. Their intrinsic beauty and value is increased by their uniqueness, for over 20 percent of the plant species are found only here and no where else. Only in our Samoan forests can the "pe'a vao" or Samoan flying foxes be seen gliding like hawks on afternoon thermals. Our rainforests are also unique in their gentleness. There are no snakes, crocodiles, poisonous insects or other dangerous animals. Because there are no thorns, our people commonly walk barefoot in the forests. In short, the forests are beautiful and safe places where other Americans can see the mysteries and beauty of the primeval rainforest.

Our decision to seek National Park Status has not been made in haste. In accordance with the dictates of Samoan custom, we have very carefully considered this proposal over a long period of time. Together with the U. S. National Park Service, our territorial government has carefully produced a study that I believe delineates our finest areas for National Park Status. We have sought the advice of experts in tropical biology, but more importantly we have looked within to the wisdom of our own people in designing a park that is scientifically unique, aesthetically pleasing, and compatible with our own culture and traditions. We have consulted carefully with our territorial leaders and particularly the chiefs and orators of the villages whose land is contemplated for inclusion within the National Park. In all cases, support for the National Park by the people of Samoa has been overwhelming.

The National Park proposal is supported by the people of Samoa for a number of reasons. First, many of our traditions and legends are closely associated with the rainforest and with the sea. Every chief's title in Samoa is directly tied to the land, and in our culture chiefs act as stewards of the land. If the rainforest ever completely disappears, many beautiful and important aspects of our culture will vanish with it. Second, as American Samoa continues to increase its economic self-sufficiency, it is important to seek new ways of diversifying our economic potential. Tourism is an important component in the optimal economic mix for our developing economy. However we seek tourists who will come to appreciate the beauty of our natural heritage and cultural traditions, and we believe that the National Park will act as a magnet for those types of visitors. Third, while continuing to educate our children to a high level of proficiency, we must continually seek means to reinforce their own unique cultural heritage. We believe that the interpretive skills of the National Park Service will provide us with an important new resource to help our children appreciate the accomplishments of their ancestors. Fourth, as our Territory continues to assume a role of leadership among our island neighbors, we wish to set an example not only in conservation, but also in cooperation with the United States. The proposed National Park will assist in this goal. Finally, although we are proud of our relationship with the United States, our remoteness prevents our citizens from taking advantage of some of the resources those in the mainland take for granted. The United States citizens and Nationals of American Samoa are further from any National Park facility than those in any other State or Territory. Our citizens would value the high-quality recreation and interpretive resources provided by a National Park.

We believe that the Samoa National Park is also in the broader interests of the United States. Rainforest conservation is a stated objective of U.S. foreign policy, and yet the way in which the United States deals with its own domestic rainforest resources means more to foreign nations than any speech or policy statement ever could. The United States, through the Montreal Accords, has also committed itself to a decrease in the emission of greenhouse gases responsible for global warming. Deforestation, particularly in the tropics, is the second largest contributor of carbon dioxide to the atmosphere. Creation of this National Park will be a symbol of our National commitment to this problem. We also believe that the unique features of this legislation, which have been designed to highlight and preserve the Samoan culture, will provide an important indication of the United States' support for the indigenous cultures of the South Pacific. Finally, because of our remoteness, few of our fellow citizens in the mainland have had an opportunity to learn of the beauty of culture and island home. We believe that this National Park will help the citizens of the United States to develop an increased awareness and appreciation for the heritage of a small but important minority group in the United States, the Samoan people.

There is a saying in the Samoan islands 'E manumanu le tava'e i lona fulu': "The tropic bird is covetous of its beautiful tail feather." Like the tropic bird, Samoa has one beautiful natural feature that stands out above all others—its tropical forests. Our representative and friends in the House Interior Committee have introduced H.R. 4818 to help preserve our priceless heritage. I now ask you as our friend in the Senate to present this bill for consideration so that we can preserve forever this unique wonder, the only paleotropical rainforest on U.S. soil.

Thank you for your consideration.

Cordially,

A.P. LUTALI,
Governor. ●

By Mr. HEINZ:

S. 2652. A bill relating to the treatment of certain State plans under section 72(e) of the Internal Revenue Code of 1986; to the Committee on Finance.

TAX TREATMENT OF CERTAIN STATE RETIREMENT PLANS

● Mr. HEINZ. Mr. President, after nearly 30 years as a Pennsylvania college professor, training teachers and rehabilitation workers to serve the handicapped, one of my constituents, "Dr. M.," retired last year and filed with the State to receive his pension benefits. But Dr. M. was in for a surprise. He thought he was withdrawing his own contributions of $51,530 tax free because he had already paid income taxes at the time contributions were made. This was money he had diligently saved for his retirement—money that would have to last a long time. He never dreamed that the Federal Government was going to tax him on his lump sum payment. To his shock, on April 15 of this year, he had to pay $14,155 of that pension money to the Federal Government.

The outrageous thing about Dr. M's tax payment, Mr. President, is that it was a mistake—a tax no one intended to make him pay—the result of a drafting error in the Tax Reform Act of 1986. Even worse, he would not have had to make this tax payment if Congress had enacted the technical corrections to the Tax Reform Act in time.

Let me explain what happened. In tax reform, Congress changed the tax treatment of pension lump sum payments made prior to the payment of the first monthly annuity check. At that time, Congress protected people in existing plans that already permitted these lump sums. However, the language written in the bill only excluded existing plans that paid the lump sums before "retirement." The pension plans for State employees in Pennsylvania, and in a few other States that pay these lump sums after retirement, but before the annuity starting date, were left out of this exclusion by mistake. We should have excluded plans making this payment

"before the annuity starting date," not before the "retirement date." This was a simple mistake that the technical corrections bill would have fixed if it had been enacted last year. Our failure to act means that Dr. M had to pay a tax of $14,155 on his pension—and several thousand of his fellow Pennsylvania retirees have been forced to pay similar unfair penalties.

I know my Senate colleagues share my frustration that the House has failed to move quickly on a technical corrections bill so that the Senate can take it up. Today I am introducing this bill—which is the exact language from the Technical Corrections Act—in the hopes of bringing this issue to the attention of my colleagues, and providing a means of resolving this problem even if technical corrections cannot be acted upon quickly. This bill is identical to H.R. 4197.

I am pleased to be joined today by my colleague, Senator INOUYE, in introducing legislation to correct this error, which adversely impacts the retirees of the States of Pennsylvania, Oregon, and Hawaii. I urge this body to act quickly to address this unintended inequity.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (h) of section 1122 of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new paragraph:

(9) SPECIAL RULE FOR STATE PLANS.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the enactment of the Tax Reform Act of 1986.●

By Mr. SASSER (for himself and Mr. GRAHAM):

S. 2653. A bill to establish a National Commission on the Thrift Industry; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

● Mr. SASSER. Mr. President, I rise to introduce, along with my good friend and colleague Senator GRAHAM of Florida, legislation that would establish a National Commission on the Thrift Industry. The Commission's purpose is first, to study the deteriorating financial condition of the Nation's thrift industry, particularly the financial condition of the Federal Savings and Loan Insurance Corporation [FSLIC]. Second, the Commission would make recommendations to Congress as to how best to proceed to return the thrifts and the FSLIC to solvency.

The Commission would be comprised of experts in the field, leaders of business and labor, distinguished academics, Members of Congress; and other individuals with distinctive qualifications. Appointments would be made to the Commission in the same manner as they were to the National Economic Commission. In other words, we would establish a blue ribbon panel to look at this deepening national problem.

Mr. President, the condition of the thrift industry and the FSLIC is worsening everyday. Indeed, the banking committee has received testimony that indicates that the cost of resolving the FSLIC insolvency could be as high as $65 billion. There is no doubt in my mind that these projections will keep increasing.

Moreover, the obvious questions that come to mind are: What is the actual cost and what resources are available to pay the bill?

Mr. President, I believe that an expert opinion as to the actual cost and an evaluation of the various resources available to pay for the problem are vital. This legislation provides for that expert opinion.

Along with the questions of the eventual cost of restoring the thrifts to financial solvency, a whole host of regulatory issues also need to be explored. There have been proposals to restructure the deposit insurance system and the bank and thrift regulatory agencies, as well as to increase capital in the thrift industry. All of these proposals deserve serious consideration.

Mr. President, the state of the thrift industry and the FSLIC may be the most serious issue facing the next administration and the next Congress. The Congress and the administration should have the benefit of an evaluation by and the recommendations of a panel of impartial experts.

Senator GRAHAM and I look forward to expeditious consideration of this legislation by the Senate.

Mr. President, I ask unanimous consent that the text of the legislation establishing the National Commission on the Thrift Industry appear in full in the RECORD immediately following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Commission on the Thrift Industry (in this subtitle referred to as the "Commission").

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be initially composed of 12 members, appointed not later than October 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) ADDITIONAL QUALIFICATIONS.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 3. FUNCTIONS OF COMMISSION.

(a) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of, and shall report and make recommendations on;

(1) the current and future financial condition of the Federal Savings and Loan Insur-

ance Corporation [FSLIC] and the current and future ability of the FSLIC to eliminate the inventory of troubled thrifts;

(2) sources of income for the FSLIC should the Commission determine that the current financial resources of the FSLIC will be insufficient to eliminate the inventory of troubled thrifts;

(3) problems in the structure of the deposit insurance system, such as the calculations of premiums, and proposals for such reforms as a risk-based premium;

(4) options for reform and restructuring of the thrift industry, such as a merger of bank and thrift deposit insurance and regulatory agencies, a separation of the insurance and regulation functions of the Federal Home Loan Bank Board, and bank holding company acquisitions of failing and healthy thrifts, and healthy thrifts only;

(5) future methods of increasing capital levels in the thrift industry and the level of capital currently supplied by investor, versus bank holding company, purchasers of troubled thrifts; and

(6) the current and future ability of the thrift industry to serve as a source of home mortgage credit.

(b) FINAL REPORT.—

(1) Subject to section 2103(b)(3), the Commission shall submit to the President and to the Congress on March 1, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989.

SEC. 4. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this subtitle. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimburseable basis, to assist the Commission in carrying out its duties under this subtitle, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 2105(b).

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle, subject to the limitation on total expenses set forth in section 2105(b).

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 2105(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5333 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 5. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $250,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, pursuant to section 2106, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 2106. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.●

●Mr. GRAHAM. Mr. President, today I join with my good friend and colleague, Senator SASSER to introduce a bill to establish a National Commission on Thrift Industry. The bill establishes a Commission to study the state of the thrift industry. Our country needs to be able to deal with the fundamental problems that industry faces now and will face in the future.

A recent Newsweek article states, "Key congressional figures now admit more help is needed, but the problem is so tricky it probably will be passed on to the next administration and Congress. Meanwhile, the cost of saving the S&L's keep rising—just like compound interest."

By establishing this Commission we can present to the House and Senate a more comprehensive set of proposals to resolve the current crisis in the thrift industry—an industry behind which every deposit of up to $100,000 the Federal Government has placed its full faith and credit.

Recently the Banking Committee received testimony which estimated that the present deficit in the insurance fund ranges from a low estimate of $20 billion to a high estimate of $60 billion. The testimony contained dire predictions that those numbers will escalate if this problem is not dealt with immediately.

We all need to understand the structural interrelationship of the industry which allows profits to be privatized and losses to be socialized, through the FSLIC system to the taxpayers of this country.

We cannot stand by and see this situation continue to deteriorate. That is why Senator SASSER and I are introducing this bill today. We need to encourage a thoughtful and meaningful examination—by seasoned professionals—of some complicated problems. We need a careful diagnosis of what we can do to keep the remaining S&L's healthy, to keep the system alive and to justify the confidence of the American people.●

ADDITIONAL COSPONSORS

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 684

At the request of Mr. HEINZ, the names of the Senator from Connecticut [Mr. WEICKER] and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 1673

At the request of Mr. CHAFEE, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1751

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1751, a bill to require vessels to manifest the transport of municipal or other vessels nonhazardous

commercial wastes transported offshore to ensure that these wastes are not illegally disposed of at sea.

S. 1851

At the request of Mr. BIDEN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1955

At the request of Mr. GLENN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1955, a bill to study the expansion of the Coastal Barrier Resources System to include undeveloped, unprotected areas along the Great Lakes shoreline.

S. 2063

At the request of Mr. DURENBERGER, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2063, a bill to amend the Internal Revenue Code of 1986 to provide that income of a child on investments attributable to the child's earned income shall not be taxed at the parents' rate of tax.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American heritage trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2240

At the request of Mr. JOHNSTON, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2240, a bill to amend the act to reauthorize the State Mining and Mineral Resources Research Institute Program, and for other purposes.

S. 2299

At the request of Mr. LEAHY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as cosponsor of S. 2299, a bill to eliminate the exemption for Congress from the application of certain provisions of Federal law relating to employment, and for other purposes.

S. 2330

At the request of Ms. MIKULSKI, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2330, a bill to promote the integration of women in the development process in developing countries.

S. 2378

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2378, a bill to amend the comprehensive Anti-Apartheid Act of 1986 to strengthen the sanctions against South Africa.

S. 2379

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2379, a bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes.

S. 2411

At the request of Mr. MITCHELL, the names of the Senator from Florida [Mr. CHILES] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 2411, a bill to amend the Internal Revenue Code of 1986 to extend the low-income housing credit through 1990.

S. 2461

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2461, a bill to amend part E of title IV of the Social Security Act to extend and make necessary improvements in the independent living program under such part, and for other purposes.

S. 2469

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2469, a bill to amend chapters 83 and 84 of title 5, United States Code, to expedite the processing of retirement applications of Federal employees, and for other purposes.

S. 2470

At the request of Mr. METZENBAUM, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alabama [Mr. SHELBY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Ohio [Mr. GLENN], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2470, a bill to promote technology competitiveness and energy conservation in the American steel industry.

S. 2480

At the request of Mr. MOYNIHAN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2480, a bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation or basic employee benefits.

S. 2500

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2500, a bill to amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts of omissions of U.S. employees committed within the scope of their employment, and for other purposes.

S. 2523

At the request of Mr. REID, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2523, a bill to amend title 23, United States Code, to require States to promptly suspend or revoke the license of a driver found to be driving under the influence of alcohol and for other purposes.

S. 2614

At the request of Mr. HOLLINGS, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2614, a bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being.

S. 2631

At the request of Mr. LEAHY, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2631, a bill to provide drought assistance to agricultural producers, and for other purposes.

S. 2636

At the request of Mr. DURENBERGER, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2636, a bill to amend title XVIII of the Social Security Act to establish a program of voluntary certification of long-term care insurance policies and to protect Medicare beneficiaries from making practices related to such policies, and for other purposes.

S. 2649

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2649, a bill for the relief of Henry Johnson.

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 269

At the request of Mr. WEICKER, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 269, to designate the week beginning October 30, 1988, as "National Marine Technology Week."

SENATE JOINT RESOLUTION 273

At the request of Mr. LUGAR, the name of the Senator from California [Mr. CRANSTON] was added as a co-

sponsor of Senate Joint Resolution 273, a joint resolution designating October 6, 1988, as "German-American Day."

SENATE JOINT RESOLUTION 306

At the request of Mr. CHAFEE, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating the day of August 7, 1989, as "National Lighthouse Day."

SENATE JOINT RESOLUTION 330

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 330, a joint resolution to provide for the designation of September 16, 1988, as "National POW/MIA Recognition Day."

SENATE JOINT RESOLUTION 337

At the request of Mr. COCHRAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 337, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 21, 1988, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 346

At the request of Mr. LAUTENBERG, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Utah [Mr. HATCH], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 346, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 347

At the request of Mr. KENNEDY, the names of the Senator from Connecticut [Mr. WEICKER], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. INOUYE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Nebraska [Mr. EXON], the Senator from Arizona [Mr. DECONCINI], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 347, a joint resolution in support of the restoration of a free and independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

SENATE JOINT RESOLUTION 350

At the request of Mr. SIMON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. MCCLURE], the Senator from Arizona [Mr. MCCAIN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 350, a joint resolution designating Labor Day weekend, September 3-5, 1988, as "National Drive for Life Weekend."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE RESOLUTION 394

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 394, a bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

AMENDMENT NO. 2554

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of amendment No. 2554 proposed to H.R. 4794, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

AMENDMENTS SUBMITTED

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

SHELBY AMENDMENT NO. 2650

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill (H.R. 4784) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; as follows;

On page 48, line 10, strike out the period and insert in lieu thereof a colon and the following: "*Provided further*, That $400,000 shall be made available to the City of Northport, Alabama for the development of a pilot program to demonstrate the benefits of a multipurpose cadastre or land information system through the development of various methods of collecting, storing and retrieving data on land for a variety of land conservation, water resource and engineering applications.".

ENDANGERED SPECIES ACT AUTHORIZATION

MITCHELL AMENDMENT NO. 2651

Mr. MITCHELL proposed an amendment to the bill (S. 675) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992; as follows

1. On page 3, at the start of line 21, insert "(b)".

2. On page 3, after line 20, insert the following new subsection:

(a) Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532 is amended to read as follows:

"The term "person" means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivison of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

3. On page 9, line 11, strike ", without further appropriation,".

BURDICK (AND SYMMS) AMENDMENT NO. 2652

Mr. MITCHELL (for Mr. BURDICK and Mr. SYMMS) proposed an amendment to the bill, S. 675, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . EDUCATION, STUDY AND REPORT.

(a) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements to be effective on or after September 15, 1988, based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use other-

wise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

(b) The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural foods and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in agricultural food and fiber commodity production and other affected pesticide users and applicators.

(c) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit an interim report on September 15, 1988, and a final report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

EVANS (AND ADAMS) AMENDMENT NO. 2653

Mr. MITCHELL (for Mr. EVANS and Mr. ADAMS) proposed an amendment to the bill, S. 675, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539 (f)(8)(A)) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a 6-month period beginning on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.".

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(B)) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

"(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(d) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539 (f)) is amended by striking paragraph (9).

HEFLIN (AND OTHERS) AMENDMENT NO. 2654

Mr. HEFLIN (for himself, Mr. MITCHELL, Mr. BREAUX, Mr. COCHRAN, Mr. GRAMM, Mr. JOHNSTON, Mr. SHELBY, and Mr. STENNIS) proposed an amendment to the bill, S. 675, supra; as follows:

On Page 10, between lines 18 and 19, insert:

SEC. 8. SEA TURTLE CONSERVATION.

(a) The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly.

(b)(1) IN GENERAL.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles.

(2) PURPOSES OF REVIEW.—The purposes of such independent review are—

(i) to futher long-term conservation of each of the relevant species of sea turtles which occur in the waters of the U.S.;

(ii) to further knowledge of activities performed in the waters and on the shores of the U.S., Mexico and other nations of the world which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which affect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this act and law.

(3) SCOPE OF REVIEW.—The terms and outlines of such independent review shall be determined by a panel to be appointed by the President of the National Academy of Sciences, except that such review, shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of U.S. geographic zones, of each of the relevant species of sea turtles;

(iii) the distribution and concentration of of each of the relevant species of sea turtles, in the waters of the U.S., Mexico and other nations of the world, during both the migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shore of the U.S., Mexico and other nations of the world, for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures; and

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the U.S., Mexico and other nations of the world and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) COMPLETION AND SUBMISSION OF REVIEW.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete expeditiously as possible the remaining work of the independent review.

(5) REVIEW OF STATUS.—After receipt of any portion the independent review from

the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) RECOMMENDATIONS OF SECRETARY.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations:

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowing of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts in behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures impose upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the relevant species of sea turtles and shrimp fishing and other activities in the waters of the U.S., Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agenies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) MODIFICATION OF REGULATIONS.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) SECRETARY AND EDUCATIONAL EFFORTS.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fishermen in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

(9) SEA TURTLE COORDINATOR.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) PURPOSE OF SECTION 8.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) DEFINITIONS.—For the purposes of this section, the terms:

(i) 'relevant species of sea turtles' means the Kemp's ridley sea turtle, U.S. breeding populations of the loggerhead, the leatherback, and the green sea turtle, other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii), 'status' means whether a given species of turtle is endangered, threatened or recovered;

(iii) 'size' means the size of a given species of sea turtle; and

(iv) 'age and sex structure' shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1989

HELMS AMENDMENT NO. 2655

Mr. HELMS proposed an amendment to the reported amendment on page 20, line 20 of the bill (H.R. 4783) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes; as follows:

On page 20, line 20 strike "X"

GRAMM AMENDMENT NO. 2656

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill H.R. 4783, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds made available under this Act, or an amendment by this Act, to carry out program authorized under title X of the Public Health Service Act shall be available after January 31, 1989, unless the Secretary has promulgated regulations requiring that the recipient of such funds consider the financial resources of the parents or guardians of an unemancipated minor and the discretionary income of such minor in determining whether such minor is a person from a low-income family for purposes of section 1006(c) of the Public Health Service Act (42 U.S.C. 300a-4(c)).

HELMS AMENDMENT No. 2657

Mr. HELMS proposed an amendment to the reported amendment on page 20, line 20 of the bill (H.R. 4783), supra; as follows:

At the end of the pending amendment, add the following:

Provided, That, none of the funds made available under this Act or an amendment made by this Act for the Department of Health and Human Services shall be obligated or expended after January 31, 1989 if on that date the Secretary of that Department has not, using existing power, promulgated regulations to prohibit the provision of contraceptive drugs or devices, or prescriptions for such drugs or devices, paid for under this Act to an unemancipated minor without the prior written consent of such minor's parent or guardian, such regulations to include that the term 'unemancipated minor' means an unmarried individual who is 17 years of age or under and is a dependent as defined in section 152(a) of the Internal Revenue Code of 1954.

HUMPHREY AMENDMENT NO. 2658

Mr. HUMPHREY proposed an amendment to the reported amendment on page 26 line 19 to the bill (H.R. 4783), supra; as follows:

At the appropriate place in the pending committee amendment insert the following new section:

SEC. . None of the funds made available under this Act shall be used to require any person or entity to perform, or facilitate in any way the performance of any abortion.

DOCUMENTATION OF CERTAIN VESSELS

HOLLINGS AMENDMENT NO. 2659

Mr. BYRD (for Mr. HOLLINGS) proposed an amendment to the bill (S. 2417) to authorize a certificate of documentation for certain vessels; as follows:

Strike all after the enacting clause, and insert the following:

That notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Scotch 'N Water (ex Victorious), United States official number 264090; ERSA, United States official number 229511; Compass Rose III, United States official number 559647; and M/V Polar Ice, United States official number 604676.

SEC. 2. Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and United States Department of Transportation Contract Numbered MA-3915 and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Cyclone (ex Coastal Spartan), United States official number 248959, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided,* That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 3. Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Tempest (ex Horseshoe Splice), United States official number 248773, to acquire, purchase, process, and transport fish

and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

CLEAN AIR STANDARDS ATTAINMENT ACT OF 1987

WIRTH AMENDMENT NO. 2660

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill (S. 1894) to amend the Clean Air Act to establish new requirements for areas that have not yet attained health-protection ambient air quality standards, to provide new deadlines for such attainment, to delay the imposition of sanctions, to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. . Year-round Daylight Savings Time.

Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by adding at the end thereof the following subsection:

(d)(1) Notwithstanding any other provision of this Act or any other law, a State in the Pacific or Mountain time zone may, by law, in lieu of the provisions of subsection (a) of this section, provide for year-round daylight savings for that State by advancing the standard time or times in such State by one hour. When time is advanced pursuant to this subsection, that time or times, as so advanced, shall be, except to the extent otherwise provided in paragraph (2), the standard time or times for the State.

(2) Any State may, be law, provide for year-round daylight savings time for only a portion of the State if that State desires to match the standard time of that portion of the State with a bordering State which has, by law, provided for year-round daylight savings time pursuant to paragraph (1) of this subsection.

(3) Any time advanced pursuant to this subsection shall remain in effect during the period provided by State law. Upon the expiration or repeal of any such State law advancing the standard time or times in a State pursuant to this subsection, the standard time or times in such State, or and after such termination or repeal, shall be in accordance with the provisions of this Act and other applicable laws, other than this subsection.

(4) Notwithstanding the foregoing provisions of this subsection, no State shall advance the standard time in such State pursuant to paragraph (1) of this subsection unless—

(A) the State contains at least one nonattainment area for the national primary ambient air quality standard for carbon monoxide;

(B) the State has determined that attainment of the national primary ambient air quality standard for carbon monoxide is not likely despite the implementation of requirements of the Clean Air Act of 1977;

(C) the State has determined that year-around daylight savings time is a necessary part of its efforts to attain the national primary ambient air quality standard for carbon monoxide;

(D) the State has included in its implementation plan a provision setting forth its intention to adopt year-round daylight savings time; and

(E) the State has included with the implementation plan information to demonstrate that adoption of year-round daylight savings time may reduce carbon monoxide levels in a nonattainment area in such State.

● Mr. WIRTH. Mr. President, I was an original cosponsor of legislation introduced by Senator MITCHELL and many other Members of the Senate to clean up the air in urban areas across the country. That legislation, which was approved by the Environment and Public Works Committee and which is now part of S. 1894, would extend the deadline for cities to meet the national health standard for carbon monoxide and ozone. But the bill also requires these cities—from New York City to Denver to Los Angeles—to adopt tough new measures to reduce air pollution.

I strongly support this legislation and if the Congress enacts this legislation into law, we will see a steady improvement in air quality in the Nation's cities. But high-altitude cities across the Western States face special problems in their efforts to reduce air pollution.

We are making progress. Last year, Colorado became the first State in the country to require the use of oxygenated fuels during the winter. That reduced carbon monoxide pollution by nearly 10 percent. Next year's program will be even more effective since the oxygen content of fuels will increase.

And Colorado has been a national leader in encouraging people to drive less, especially on high pollution days. Our "Better Air Campaign" also cut carbon monoxide pollution by 10 percent.

But we can and must do more. Today, I am introducing an amendment to S. 1894 that will give States like Colorado another tool they can use to clean the air.

This amendment, Mr. President, would give States like Colorado the option of switching to year-round daylight saving time if they can show that such a change would help reduce air pollution.

The problem in States like Colorado is that winter temperature inversions trap auto emissions near the ground. These winter air inversions occur frequently in the evening. As a result, cities like Denver typically experience their highest carbon monoxide levels on winter evenings. However, if Colorado were to stay on daylight saving time year-round, evening rush hour would occur at warmer daylight hours, when pollution is more likely to disperse.

The Colorado Department of Health has carefully studied this proposal. They have concluded that shifting Colorado to year-round daylight saving time would reduce carbon monoxide air pollution by 9 percent. That represents a significant reduction, and it would be virtually cost free. There are very few, if any, other pollution reduction strategies that can make that claim.

This amendment would streamline the process for States that want to shift to daylight saving time. It would not relieve the States from adopting other measures that they must take to reduce air pollution. And it would require the States to make a showing that such a change would reduce air pollution. But if the States can make that showing, this amendment would remove the procedural obstacles to getting that done.

Mr. President, S. 1894 is a good bill. It will protect the health of millions of Americans who live in cities across the country and who are exposed every day to dirty air. This amendment strengthens the bill by giving Western States an additional tool to fight air pollution. I encourage my colleagues to support this amendment, and S. 1894.●

NOTICE OF HEARING

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the hearing on August 2, 1988, before the Subcommittee on Public Lands, National Parks and Forests will include an additional measure pending before the subcommittee. The measure is H.R. 4050, for the relief of certain persons in Riverside County, CA, who purchased land in good faith reliance on an existing private land survey.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS AND THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CHILES. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests, and the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on July 25, 1988, 2 p.m., to conduct a joint hearing on S. 2420, a bill to provide for the disposition of certain lands in Arizona under the jurisdiction of the Department of the Interior by means of an exchange of lands, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON HEALTH

Mr. CHILES. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate on July 25, 1988, at 2 p.m., to hold a hearing on the problems resulting from the lack of health insurance coverage in the United States.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

DICK CONLON: AN EXTRAORDINARY MAN

● Mr. SARBANES. Mr. President, Dick Conlon, who died recently in a tragic boating accident, was an extraordinary man. Born and raised in Dubuque, IA, he was graduated from the University of Minnesota and began his professional career in journalism, working for 4 years as a reporter for the Duluth Herald & News Tribune. In 1962 he moved to the Minneapolis Tribune and then, in 1964, made a decisive move that was to change the course of his life. He accepted one of the congressional fellowships offered annually by the American Political Science Foundation, and came to Washington.

Following his year as a congressional fellow, Dick and Marti, his wife, decided to remain in Washington. Dick spent the next 3 years as press aide to Senator Walter Mondale. Then, in March 1968, he became executive director of the Democratic Study Group.

No brief summary could possibly do justice to Dick Conlon's accomplishments in his 20 years at the DSG. Dick created a range of research services that today serve as a model for legislative research efforts, adhering scrupulously to impeccable standards of accuracy and analysis. In fact, he considered the DSG's ambitious research program to be his greatest achievement but, with characteristic modesty, attributed the high quality of DSG research to the hard work of the DSG staff.

Under Dick's guidance, the DSG became and remained a rallying point for the sustained efforts inevitably required, year in and year out, to address the major, complex issues of domestic and foreign policy. He committed his formidable energies and skills to the challenge of procedural reform, a challenge which by its nature is tortuous and complex, which demands painstaking analysis and balancing of a multitude of points of view, and which cannot be resolved in a day or a week, but only over time. The House of Representatives is today a far more democratic institution than it was 20 years ago, when such apparently routine practices as recorded votes on amendments, open committee meetings, and more open and democratic procedures in the Democratic caucus were the exception rather than the rule. That this is so is due in large measure to Dick's perspicacity and tenacity, although Dick, again characteristically, always insisted that the reforms were an institutional and not an individual achievement.

After all is said and done, however, the key to Dick Conlon's effectiveness was, simply, the kind of person he was. Dick combined the perspective of a philosopher with the skill of a master strategist and tactician. He was wise as well as smart. He had a high respect for words and used them well, always their master, never their slave. He brought together a concern for society as a whole and a concern for individuals; his overarching vision of an open, diverse and just society was at one with his fierce respect for institutions and procedures. He was an adviser and friend to Members who worked with him in the House, and to the dozens of young people who over the years worked for him at the DSG.

The tragedy of Dick's death falls most cruelly on his wonderful family, to whom he was devoted: His wonderful wife Marti, who unfailingly supported and encouraged him at the DSG despite the ceaseless demands of his work; his three children, sons Charles and Michael and daughter Kellie Paris; and the young grandchildren in whom he took such pride. But his death is a loss for all of us. It was a privilege to know Dick Conlon. We are better for having known him. We will not forget him.

Mr. President, numerous articles concerning Dick Conlon appeared in the press at the time of his death. I ask to have these articles, along with a March 31 statement by DSG Chairman Representative MIKE LOWRY and Dick Conlon's response of April 20, reprinted in the RECORD.

The articles follow:

[From the New York Times, June 23, 1988]

RICHARD CONLON DIES IN ACCIDENT; HEAD OF DEMOCRATIC UNIT WAS 57

(By Linda Greenhouse)

WASHINGTON, June 22.—Richard P. Conlon, executive director of the Democratic Study Group in the House of Representatives, one of the most influential staff members in Congress, died Sunday in a boating accident on the Chesapeake Bay.

Mr. Conlon, who was 57 years old, was sailing a friend's boat with his wife, Marti, when he was knocked overboard by the boom. He disappeared, and his body was found Tuesday by the Maryland state police.

A week ago Mr. Conlon was the guest of honor at a party attended by several hundred members of Congress and their aides, marking his 20th anniversary as director of the Democratic Study Group. The group, which describes itself as a service and coordinating organization for House Democrats, is an authoritative source of legislative research and political strategy.

Of the 262 House Democrats, 236 are members of the group, which has a moderate-to-liberal orientation; 17 more Democrats and 21 House Republicans pay the $2,500 annual dues in order to receive the group's reports on issues and legislation.

THE HEART AND SOUL

Informing their colleagues of Mr. Conlon's death, Representative Mike Lowry of Washington, the current chairman of the study group, and four former chairmen said in a statement: "For 20 years, Dick Conlon was the heart and soul of virtually every progressive effort in the Congress to strengthen the House of Representatives as an institution and to promote justice and equity in our public policies."

Representative Tony Coelho of California, the majority whip, said in an interview today, "Dick was one of the people who made this place work." Mr. Coelho said that Mr. Conlon enjoyed such credibility with so many House members that virtually no major legislation could pass without his personal support. If Mr. Conlon opposed a leadership initiative, Mr. Coelho said, the leadership would often have to decide whether to modify its position or work through other House members to try to persuade Mr. Conlon to see the matter in a new light.

Mr. Conlon, a liberal who was a long-time admirer of Hubert H. Humphrey, worked actively for civil rights legislation and was an opponent of both the war in Vietnam and military assistance to the Nicaraguan rebels. His personal specialties were campaign finance and House procedure. Representative Lowry, in a 20th anniversary tribute to Mr. Conlon in the Congressional Record, credited him with a key role in bringing about changes in the 1970's that diminished secrecy and weakened the hold of the seniority system in the House.

Mr. Conlon, a slim, gray-bearded man who projected energy and enthusiasm, was also a strong defender of the institutional prerogatives of Congress. Last year, after President Reagan ordered the beginning of naval maneuvers in the Persian Gulf, Mr. Conlon was instrumental in organizing 110 House members to bring a lawsuit to force him to comply with the terms of the War Powers Resolution. The lawsuit was dismissed in Federal District Court here and is now on appeal.

Mr. Conlon was born Nov. 16, 1930 in Dubuque, Iowa. He graduated from the University of Minnesota and began a career as a journalist, first for The Duluth Herald & News Tribune and then for The Minneapolis Tribune. He came to Washington in 1963 on a Congressional fellowship sponsored by the American Political Science Association, under which he spent a year working in both the House and Senate. "The program changed my life," he said in an interview several years ago. "Like most reporters, I had an itch to get in and straighten things out."

He remained on Capitol Hill, working for three years as a press assistant to Walter Mondale, then a Senator from Minnesota. In 1968, he began his tenure as executive director of the Democratic Study Group.

In addition to his wife, Mr. Conlon is survived by two sons, Charles and Michael; a daughter, Kellie J. Paris, and two grandchildren.

[From Roll Call, July 3, 1988]

HOUSE MOURNS INFLUENTIAL DSG DIRECTOR CONLON, 57

(By John P. Gregg)

The House last week mourned the loss of Richard Conlon, a staffer at the heart of the institution whose behind-the-scenes efforts made it a more open and democratic body, less governed by seniority alone.

Conlon, the executive director of the Democratic Study Group for the past 20 years, died June 19 in a sailing accident on the Chesapeake Bay. Conlon was hired by former Rep. James O'Hara (D-Mich) to head the DSG in 1968.

During his tenure, Conlon worked closely with reform-minded Members and outside public-interest groups to effect changes in Democratic Caucus rules that required monthly meetings of the caucus and secret-ballot caucus votes on committee chair assignments. Because of these reforms, chairmen became far more accountable to rank-and-file Members.

Conlon had a hand in requiring recorded votes on amendments, a reform that Rep. Mike Lowry (D-Wash), the chairman of the DSG, called "one of the most significant rules changes in the history of the House." Conlon championed campaign-finance reform legislation and recently mobilized support for a House challenge, using the War Powers Act, to President Reagan's Persian Gulf policy.

Another Conlon legacy is the DSG itself, which, thanks to his efforts, became a crackerjack research organization that provides Members with up-to-the-minute information on pending legislation and policy issues. Despite the shock of Conlon's death, the DSG published reports the following day.

Lowry, Majority Leader Tom Foley (D-Wash), and other former DSG chairmen released a joint statement last week that said, "His death is a tragic loss to many of us personally and an incalculable loss to progressive democratic forces in the House and throughout the country."

O'Hara, now an attorney with Patton, Boggs and Blow in Washington, noted, "While chairmen of the DSG came and went, Dick Conlon stayed . . . [providing] continuity and institutional memory to the reform movement."

He added, "Dick had a complete commitment to the House functioning as a more democratic institution."

Peter Barash, the staff director of a House Government Operations subcommittee, remarked, "Dick Conlon is the paradigm of the person who works behind the scenes . . . but has an enormous influence on government."

David Cohen, co-director of the Advocacy Institute, credited Conlon with making "the majority of the majority party effective to pursue its goals."

And Rep. Jerry Lewis (R-Calif), the chairman of the House Republican Policy Committee, said that when he headed the House Republican Research Committee, he sought to model that panel after Conlon's DSG.

Ironically, the DSG had celebrated Conlon's 20-year reign with a party less than a week before his death. The invitations included a picture of Conlon, who loved to sail, on a boat.

Conlon, who was 57, is survived by his wife, three children, and two grandchildren.

A memorial service will be held for Conlon on Tuesday (June 28) at 5 p.m. in the Ways and Means hearing room in Longworth.

[From the Washington Post, June 23, 1988]

RICHARD CONLON

When Richard Conlon, who died in a sailboat accident last weekend, became the chief staffer for the Democratic Study Group almost exactly 20 years ago, the House of Representatives was a largely conservative and tradition-bound quarter of American politics. Elderly committee chairmen were vested with great power by operation of the seniority system, and an alliance between conservative southern Democrats and small-town Republicans dominated the House on issues far more often than its Democratic speakers could. At a time when the presidency and the executive branch were beginning to be transformed, when the Senate was in the throes of reform and state governments were growing larger and more competent, the House, intended by the founders to be the branch of government most responsive to changes in opinion, seemed to be almost impervious to change.

Today the House is a vastly different institution, and Mr. Conlon was one of the handful of people responsible. He helped to establish the Democratic Study Group, not just as a lobby but also as an organization that provided reliable information on issues before the House. And he helped provide the leadership that abolished such hoary practices as unrecorded votes and automatic succession to chairmanships, insisting instead that members be accountable to their constituents, and chairmen to their colleagues. The political result through most of the 1970s and 1980s has been to favor the liberal Democratic causes Mr. Conlon supported. But the institutional changes guarantee that the House will be more responsive to any majority, as was shown when Republicans took effective control on the tax and budget issues of 1981.

Of course, Mr. Conlon did not work alone; various House Democrats and national political trends helped produce the results he sought. But he brought to his work important qualities of intellectual integrity and steadiness of purpose that helped make the DSG's victories not the momentary triumph of a faction but the restoration of a branch of government to something nearer its original purpose. His death came while he was still in the midst of his work, but he left behind major accomplishments.

[From the National Journal, June 25, 1988]

A HOUSE DEMOCRAT

(By Richard E. Cohen)

Richard P. Conlon, executive director of the House Democratic Study Group (SDG), died on June 19 in a boating accident on the Chesapeake Bay. He was 57.

Conlon was a rare breed among congressional aides. He was an institutionalist. He cared deeply about the way Congress operates—especially the House and, most especially, the Democrats in the House. He worked on many levels: legislative, electoral, systemic, informational. He certainly was a Democrat, but he was most passionately, a democrat, who believed that government must reflect the public will.

Conlon cared about results and the contents of legislation. As an institutionalist, he also pursued the Jeffersonian ideal that Members of Congress ought to work harder to assert their responsibility as lawmakers.

Like many of the House's institutionalists, Conlon could be unrelenting in advocating what he believed were the best interests of the House and his party. Friends and foes alike called him "the 436th Member." Some critics viewed him as "the prince of darkness."

Woes to the Member of Congress, especially a House Democrat, who stood in his way. During the 1985 House debate on the tax reform bill, Ways and Means Committee chairman Dan Rostenkowski, D-Ill., wanted to kill the tax credit for an individuals' contribution to a political candidate. But DSG leaders, energized by Conlon, challenged and initially defeated Rostenkowski, coming away with the only House floor amendment to the committee-reported bill. The chairman later got his way in a House-Senate conference committee but, a Conlon ally said, "Rostenkowski was ready to kill him."

Woe, also, to the congressional reporter who did not give Conlon's view—which was usually the accurate view—of a story in which he was involved. Certain reporters, notably yours truly, had a bad habit of crediting the "Watergate babies" elected in 1974 for the major internal House reforms that were approved by the Democratic Caucus after that election. As Conlon said very clearly, the 75 freshman Democrats provided the votes, but painstaking efforts of DSG leaders over many years performed the essential spade work and developed the tactics that led to the ouster of three autocratic committee chairmen and forced Members to be more accountable to the caucus. And when I wrote in 1979 that the DSG was suffering an "identity crisis" because it had achieved most of its goals, Conlon tartly responded that the report "would be news to DSG members" and that the organization had reached the peak of its influence.

Conlon held his post for 20 years—a remarkable feat, considering that a new chairman took control every two years. Ironically, friends celebrated the anniversary at a big Capitol Hill reception four days before his death; the invitation showed Conlon at the helm of a boat.

He had taken the DSG job after serving as a reporter in Minnesota and as a press secretary to then-Sen. Walter F. Mondale, D-Minn., and he quickly plunged into the effort of Members seeking to force a vote on ending the Vietnam war. Years later, he rallied DSG forces against aid to the Nicaraguan contras by publishing a long series of reports on events in the region, and he organized a lawsuit by 109 House Members challenging the constitutionality of U.S. reflagging of Kuwaiti tankers in the Persian Gulf.

"No person in this town has been more crucial than Dick to the success of progressives in the House for 20 years," said Rep. David R. Obey, D-Wis., a close ally and former DSG chairman. "His agenda was never finished. In the later years, our big problem was not the House rules but how to respond to the Reagan Administration's economic policy and foreign policy abuses." Obey, himself a major player, credited Conlon as the "driving force" behind the rules changes that weakened seniority and strengthened the party leaders. "Everything he did was to teach Members by producing information that was accurate and straight but pushed home a point."

On the campaign front, he organized the Democratic Study Group Campaign Fund in 1974 to give candidates access to low-cost polling. "Dick felt that in-house polling was a way to control escalating campaign costs, with professional standards," said political scientist Thomas E. Mann, who organized the program with Conlon in its early years and who is director of government studies at the Brookings Institution.

Starting in the early 1980s, the polling function passed to the Democratic Congressional Campaign, Committee, largely because its chairman, Rep. Tony Coelho of California, began raising enough money for the committee to underwrite the services. Coelho's aggressive style initially caused friction between the DSG and the campaign committee. "Dick opposed the cult of personality and feared that it could be manipulated by someone in the future," said Martin D. Franks, who was executive director of the campaign committee form 1981-87. "By 1985, he was satisified with how we operated, and the two groups were restored to their proper roles, with DSG oriented to issues and inside the House."

Probably the most important aspect of that service, and the feature least visible to the public, has been the yellow DSG legislative fact sheets perfected by Conlon, which Members and aides of all ideological persuasions (plus more than a few reporters) use as crib sheets on pending bills.

At a time when congressional aides leave the Hill to earn big bucks in law or consulting firms or to write lightweight collections of Capitol Hill anecdotes, Conlon showed that professionalism can mean selfless and driven service to make Congress work better. His death came at a time when mounting legal and ethical misdeeds among House Members threaten the House's integrity and when the House is most in need of leadership to develop workable reforms in such areas as campaign finance and House operations. These are issues on which Conlon was a legislative genius.

Because Conlon won't be around, some Members might not feel as challenged to address the problems as they would have; others won't have the tactical help and institutional memory that they badly need. The public will be the loser.

TRIBUTE TO RICHARD P. CONLON ON TWENTIETH ANNIVERSARY AT DSG

(By Hon. Mike Lowry)

Mr. LOWRY of Washington. Mr. Speaker, 20 years ago this month, Richard P. Conlon became director of the Democratic Study Group. During the past two decades, few staff members have had a greater impact on this institution. He has not only played an important role in many of our national policy debates, he has had an enormous impact on the decisionmaking process itself. As principal strategist of the reform effort in the 1970's that transformed the House of Representatives, he has made a unique and enduring contribution to the legislative process, to us as Members, and to the people we serve.

Mr. Speaker, as chairman of the Democratic Study Group, I rise today to pay special tribute to Dick Conlon on the occasion of his 20th anniversary as DSG's executive director. On behalf of all DSG members, I take this opportunity to honor Dick for his overriding commitment to protecting the integrity of the political process, his commitment to the use of the Democratic Party to promote the public interest, and his unwavering dedication to strengthening the House as an institution.

Today we congratulate and salute Dick Conlon for his extraordinary achievements in reforming House organization and procedures, and in building DSG into the preeminent research institution in the Congress.

In recognition of Dick Conlon's years of leadership at DSG and dedicated service to its members, I would like to take a moment on this special occasion to relate some of his most important accomplishments over the past 20 years, and particularly his instrumental role in congressional reform.

Richard Conlon became the third DSG executive director in March 1968. The first was William G. Phillips, who served from 1959 through 1965, and the second was John Morgan, who served from 1966 until 1968.

Dick accepted the position against the advice of many of his friends and colleagues. They saw a bleak future for the organization after the heavy losses in the 1966 election and the prospects for further dwindling of liberal Democratic strength in 1968.

But Dick saw it differently. He recognized that there would be an even greater need for an organization to act as a focal point for mobilizing liberal Democrats in the House. He saw an opportunity to expand DSG's operations as a research and policy institution, and to establish the Democratic Study Group as the vanguard of the congressional reform movement.

Dick Conlon was the right man at the right time. His activist, pragmatic approach, his intense interest in reform, his political insight, his shrewd tactical skills, his commitment to progressive Democratic policies, all melded perfectly with the needs and interests of DSG members at the time.

Congressional reform soon became the top priority of DSG. There was broad consensus among DSG members on the objectives of the reform effort: to end secrecy in the House, to democratize House and caucus procedures, to assure that committee chairman are accountable to the full Democratic caucus, and to give junior Members an opportunity to participate in the legislative process.

Dick played a vital role in the achievement of those goals. Working with key DSG reform leaders, he conceived and drafted most of the rules changes, devised the political strategy to win their approval, and managed the overall execution of the reform effort.

He was also the contact point with a coalition of outside groups and worked closely with them to rally public opinion and mobilize Democratic members in support of the reform proposals.

Dick made two strategic decisions at the beginning of the reform effort that were critical to its eventual success: First, to pursue a limited number of achievable reforms, Congress by Congress, rather than attempt a comprehensive reform package; and second, to revitalize the party caucus as the basic determinant of party policy and as the instrument of reform.

Dick had the foresight to recognize that changes in basic caucus procedures would open the door to fundamental reform.

The first procedural changes occurred in 1969, with the approval of DSG proposals to require monthly meetings of the Democratic caucus, and to permit individual Members to bring matters before the caucus for debate and vote. Another basic reform reestablished caucus control over committee assignments, thus paving the way for the automatic secret ballot vote on committee chairmen.

It was also Dick Conlon's idea to create a caucus committee to study and recommend changes in the seniority system and other House and party procedures. His rationale was that such a committee would legitimize the reform effort, and insulate the reform proposals from attack as radical changes advocated by liberal DSG members.

Of course, Dick continued to play a key role in the reforms proposed by the "Hansen" committee, and does so today in the deliberations of that committee, now chaired by our colleague MARTIN FROST.

Conlon's proposal to create a caucus committee illustrates his selfless commitment to the success of the reform effort. He would readily submerge his own involvement and downplay the association with DSG if it would ultimately help win approval of the reforms.

Dick followed that strategy in the case of the record teller vote reform in 1970. He devoted his considerable energies to mobilizing support both inside and outside the House for this crucial reform to permit recorded votes on amendments.

He generated favorable public opinion through a massive press campaign, prepared detailed reports on secrecy in the House, and recruited support from labor, education, and public interest groups. He worked with DSG leaders to form a bipartisan coalition in the House, and enlisted Members who had not been identified with the reform movement to sponsor this rules change.

Dick masterminded and executed every aspect of this effort to permit record votes on amendments, while minimizing the public perception of DSG's role in achieving one of the most significant rules changes in the history of the House.

In addition to the record teller vote and other antisecrecy reforms, the principal target of DSG's reform effort in the 1970's was the seniority system. The objective was not to abolish the system, but rather to assure that those who gain power through seniority are accountable and responsive to the Democratic caucus. Dick's strategy in that effort established the model that has been used again and again in DSG's initiatives to influence substantive policy decisions.

That basic strategy is to survey Members to determine their attitudes on the issue and selected policy options, prepare comprehensive analyses based on a thorough documentation of the facts, mobilize public opinion, and use the caucus to build support for policy initiatives.

In the case of the seniority system, DSG launched an educational effort after a survey of Members revealed considerable misunderstanding of seniority rule and its impact on power relations within the House. Dick prepared a report documenting the voting patterns of conservative Democrats in opposition to national Democratic programs and policies; and a second report tracing the evolution of the seniority system.

These two reports—based on meticulous research and analysis, thoroughly objective, presenting the arguments on both sides of the issue—had a tremendous impact on Democratic Members and won their support for the effort to break the iron grip of seniority rule.

Dick Conlon also built DSG into a highly respected research operation—the acknowledged best source of legislation research in the Congress. Dick devoted a great deal of time and effort to expanding DSG's research services, and insisted on the highest standards of objectivity and accuracy. Now nearly all Democratic Members, and a score of Republicans, rely on DSG's daily and weekly legislative reports and periodic special reports on major political issues.

DSG's prodigious research output on legislation and policy issues is phenomenal. Under Dick's supervision, hundreds of reports numbering thousands of pages are published every year. The staff prides itself in preparing a summary of every bill that

comes before the House, even if doing so requires working through the night in order to provide Members with what is sometimes the only available analysis of the pending bill.

Dick recognized from the beginning that the credibility of the research services would enhance DSG's prestige and establish the foundation for its policy initiatives.

Those policy initiatives are carefully selected by the DSG leadership, and are generally limited to issues of overriding national importance, such as tax and budget policy, or to issues on which DSG has developed a specific expertise, such as campaign finance reform.

On the issue of tax reform, for example, DSG has a long history of leading progressive Democrats in efforts to close loopholes and eliminate inequities in the tax code. In recent years, Dick spearheaded DSG initiatives to achieve deficit reduction through tax reform, working with key Ways and Means Committee members and others in 1983 to develop a series of tax reform measures to met deficit reduction targets. He directed similar efforts in 1985 to mobilize and document broad public and Member support for using revenues from tax reform for deficit reduction rather than rate reduction.

In this Congress, DSG has been extremely active in the debate on Contra aid, publishing a long series of reports on developments in Nicaragua and the peace process. Dick was personally involved in the development of the Democratic alternative considered earlier this month, and worked tirelessly to help Members understand the issues involved in the Contra debate.

Dick also worked long hours with me in developing the DSG court challenge of the President's failure to report to Congress on the reflagging of Kuwaiti tankers in the Persian Gulf. A total of 109 Members have joined me in the filing of this most important challenge under the War Powers Act. It would not have been possible without Dick's efforts.

The issue of overriding interest to Dick Conlon, however, is the one that he has worked on assiduously over the years: campaign finance reform. DSG undertook major long-term campaign in 1978 to win support for partial public financing of elections to the House of Representatives.

Dick played a key role in the development and execution of the reform effort on H.R. 1, which was defeated in committee in early 1979, and the subsequent effort on the Obey-Railsback limit on PAC contributions, which passed the House later that year but was filibustered in the Senate.

More recently, he developed the idea to minimize Members' dependence on PAC contributions, and encourage participation of individual citizens, by providing a 100-percent tax credit on small contributions from people in the Member's home State. In support of that effort, he directed a comprehensive analysis of campaign funding trends over the past 10 years to document the increasing dependence of congressional candidates on PAC money and the decline in individual campaign contributions.

The 100-percent tax credit proposal was the only successful floor amendment to the 1986 Tax Reform Act. Dick was instrumental in achieving support for the proposal in the Democratic caucus and narrowly in the House. It was dropped in conference, but we can be sure that Dick will turn his attention to that proposal again at the appropriate time.

Dick has had a significant impact in other ways in the campaign process itself. He rejuvenated the DSG campaign fund and began an extensive program of services for nonincumbent candidates. He also conceived and engineered highly successful direct-mail campaigns usually written by him. He developed special campaign workshops in 1970 which served as a model for similar workshops sponsored by the party campaign committees. Dick also invented a new polling concept, using DSG professional pollsters and volunteers trained by them, which enabled candidates to conduct at-cost professional polls.

In addition to helping candidates compete more effectively, Dick also helps newly-elected Members make a smooth transition as they begin their service in the House. Under his guidance and direction, DSG began the practice in 1970 of sponsoring orientation briefings for new Members before the start of the Congress.

Mr. Speaker, perhaps the greatest tribute that would be paid to Dick Conlon is that he has made a difference. The House of Representatives is truly a far more democratic institution because of his work here.

I am sure all of my DSG colleagues join me in saluting Dick Conlon for his remarkable contributions to this House over the past 20 years.

Dick, we congratulate you, we thank you, and we look forward to your continued leadership at DSG for many years to come.

DICK CONLON OF THE DEMOCRATIC STUDY GROUP

(By Hon. Mike Lowry)

Mr. LOWRY of Washington. Mr. Speaker, in my March 31 remarks regarding Dick Conlon's 20th anniversary as executive director of the Democratic Study Group, I noted that one of his most important achievements is the widely respected research service he created at DSG over the past two decades. DSG research has an unparalleled reputation for integrity and accuracy, among other reasons, because of Dick's insistence that a correction or supplement be issued promptly whenever a DSG report is not precisely accurate or is incomplete in some respect. Thus, it was no surprise that I found the following letter on my desk when I returned to Washington from the Easter recess;

DEMOCRATIC STUDY GROUP
HOUSE OF REPRESENTATIVES,
Washington, DC, April 12, 1988.

Hon. MIKE LOWRY,
Chairman, Democratic Study Group,
U.S. House of Representatives.

DEAR MIKE: It is very pleasant to receive recognition for one's accomplishments—especially when that recognition is unsolicited. I was truly overwhelmed by your remarks in the March 31 Congressional Record regarding my 20 years at DSG, and I am deeply appreciative.

However, you are far too generous in the credit you give me for the various accomplishments of DSG over the past two decades. I do accept credit for development of DSG's research product; it continues to be my proudest achievement. However, the continued excellence of our research would not be possible were it not for the commitment and hard work of the DSG staff.

But, it is what you said with respect to my role in the enactment of the congressional reforms of the early 1970s that requires me to write this letter. You give me far too much credit, and I cannot allow the record to stand that way.

I did play an important role in the reform effort and I am immensely proud of that role. But the reforms were an institutional—not an individual—achievement. It was the Members of the DSG Executive Committee, not Dick Conlon, who initiated the reform effort, who decided which reforms to pursue, who devised the political strategy to win their approval, who made the strategic decision to pursue reforms on a step-by-step basis over several Congresses rather than attempting to enact a comprehensive reform package at one time.

And it was DSG Chairman Jim O'Hara who, in 1968 when others were pressing for more dramatic reforms, saw that the key to reform in the House was revitalization of the Democratic Caucus and who proposed monthly caucuses as a way of achieving this end. Indeed, were it not for this relatively innocuous first step, none of the far-reaching reforms which were adopted could have been achieved.

Similarly, the reforms of the 1970s would not have been possible without the leadership of the Chairmen who followed Jim O'Hara: Don Fraser, Phil Burton, and Tom Foley.

Other DSG leaders and Members who made major contributions to the success of the reform effort included Dick Bolling, Mo Udall, Sam Gibbons, Julia Butler Hansen, Jack Bingham, Frank Thompson, Jr., John Blatnik, Chet Holifield, John Culver, Dave Obey, Tip O'Neill, Ab Mikva, Henry Reuss, Bill Ford, Jim Corman, Tom Rees, Brock Adams, Don Edwards, Neal Smith, Frank Evans, John Seiberling, Dante Fascell, Lloyd Meeds, Bob Eckhardt, and Bob Kastenmeier.

It was these Members and others like them who were responsible for the success of the reform effort in the House. It was my great honor to have had the opportunity to work for and with them.

Again, Mike, my thanks to you and the former Chairmen who helped you for your thoughtfulness and the generosity of your remarks.

Sincerely,

RICHARD P. CONLON,
Executive Director.

THE RETIREMENT OF RICHARD BAIN

● Mr. MURKOWSKI. Mr. President, I rise today to pay tribute to a man who could be described as the man who made the harmonica an acceptable and even desired form of entertainment. His name is Richard Bain. Mr. Bain has recently retired, after having spent the last 36 years as Deputy Director of Ceremonies and Special Activities for the Office of Public and Consumer Affairs, Veterans' Administration Central Office.

At age 15, Richard Bain toured the country with the late Borrah Minevitch's "Harmonica Rascals" playing in leading theaters, clubs, and hotels. After 3 years in the Navy, he returned to the stage where he was featured with such great performers as Fred Waring and Horace Heidt. Mr. Bain recorded transcriptions with Kay Kyser and his orchestra for NBC. He also appeared as a soloist with Arthur Fiedler at Boston's Esplanade, the Buffalo and New England Philharmonic Orchestras, as well as soloing with the

Florida; New Jersey; Cumberland, MD; and Arlington, VA Civic Symphonies.

Mr. Bain became a member of the U.S. Navy Band after being recalled into the Navy during the Korean conflict and was the first harmonica soloist ever assigned to a major service band. Mr. Bain became a very popular and sought after entertainer with congressional leaders, Supreme Court Justices, and even played for many heads of state. However, his most memorable assignment was playing for the late President and Mrs. Eisenhower's 42d wedding anniversary.

During his military service, he served as writer and adviser on several film projects and received the Navy Achievement Medal and a commendation from the Chief of Naval Operations for his efforts. Upon his retirement, he was awarded the Navy Commendation Medal for his contributions as a harmonica soloist, narrator, and public affairs officer for the Navy Band.

Mr. Bain has had the honor of participating in such special national events at Veteran's Day Memorials at Arlington Cemetery and nationwide, the Winter Olympics in Lake Placid, and helping produce the opening ceremonies for President Reagan's first inaugural. Most recently he was requested to assist in the Liberty Weekend/Rededication of the Statue of Liberty where he was responsible for coordinating all the appearances of the numerous military musical organizations. Mr. Bain's participation in the events has brought widespread attention and honor to our Nation's veterans, a group of men and women whose ultimate sacrifice deserves such honor and respect. I am sure that if asked, Mr. Bain would say his service is a way of thanking our veterans for their loyalty and dedication to our country.

It is an honor to recognize a man who has spent the majority of his life bringing joy to others through his music.●

KIRYAT ONO SYMPHONIC YOUTH BAND

● Mr. LAUTENBERG. Mr. President, I would like to draw my colleagues' attention to the performance on July 27, 1988 of the Kiryat Ono Symphonic Youth Band from the music conservatory near Tel Aviv, Israel at Temple Emmanu-El in Westfield, NJ.

The band was founded 24 years ago by Aharon Alkalay, and is still under his direction. It is making its 10th overseas tour and its 4th appearance in the United States in conjunction with the 40th anniversary of the State of Israel.

Consisting of about 50 youngsters between the ages of 13 and 18, the band provides an important educational and cultural framework for the youngsters of the Kiryat Ono area. Their repertoire is wide and varied, including international light and classic items, Israeli compositions, and traditional brass and wind pieces. As a nonprofit institution, its aims are to promote good relations between Israel and other countries through the performances of the band before the general public, to give young musicians an opportunity to take part in international festivals, and to give band members an opportunity to see and learn about the Diaspora and its link with Israel.

In addition to performing frequently at official functions in Israel, the band has played in Europe, Canada, South Africa and South America as well as the United States. The band participated in our Bicentennial Celebration in 1976 and received certificates of appreciation from Presidents Ford and Carter after performing twice at the White House. In 1986, one of their appearances was in Washington, DC where they participated in the International Youth Musical Festival sponsored by the U.S. Senate.

Before the Kiryat Ono Band embarked on the 1986 trip, they gave a farewell concert in Israel under the patronage of U.S. Ambassador, Thomas Pickering. In his letter to the then Foreign Minister, Yitzhak Shamir, the Ambassador said,

> It is informal exchanges such as these, all the work of diplomats and statesmen aside, which form the basis for strengthening the ties of friendship and understanding that bind us.

Mr. President, I am proud that New Jersey is welcoming these fine musicians and ambassadors of good will to our shores. I commend Temple Emmanu-El for sponsoring their performance, and Arthur Sudfield for arranging it. I hope that as many people as possible can hear their wonderful music while they are in the United States.●

WINDFALL PROFIT TAX ON CRUDE OIL

● Mr. BAUCUS. Mr. President, the windfall profit tax on crude oil placed a heavy burden on the oil producing industry. While this burden may have seemed justified when price decontrol of crude oil made $50 per barrel prices and outlandish industry profits likely, those times have come and gone. Falling oil prices have crippled the domestic oil industry, and compliance with the windfall profit tax has exacerbated the problem. While the tax is no longer generating revenue, the industry is nevertheless saddled with the administrative paperwork necessary for compliance with the tax and must divert millions of dollars away from active exploration for nonproductive bookkeeping. As a result, the windfall profit tax has helped force down domestic oil production and has led to the import of greater amounts of foreign oil. Furthermore, last year alone the Internal Revenue Service used 150 staff-years and spent nearly $10 million to administer a tax program that does not collect any revenue. Certainly this is not the kind of policy this country needs.

Mr. President, I would like to bring to your attention a recent editorial which appeared in the Great Falls Tribune entitled "Windfall Profit Tax Should Be Repealed." This piece presents the belief that the continued existence of the windfall profit tax would be unwise and that the domestic oil industry is no longer in a position to bear its burden. I note that since this editorial appeared the price of west Texas intermediate crude oil has fallen another $2 per barrel, making the situation of the domestic oil industry even worse. However, I am pleased to note that repeal of the windfall profit tax on crude oil is included in the omnibus trade and competitiveness bill. I urge all of my fellow Senators to keep this in mind as they consider the trade bill.

Mr. President, I ask that the editorial be printed in the RECORD.

The editorial follows:

[From the Great Falls Tribune, June 14, 1988]

WINDFALL PROFIT TAX SHOULD BE REPEALED

Predictions that the price of crude oil, now around $17 a barrel, is heading down strengthen the case for a major change in federal energy-tax policy. Oil industry "windfalls" are but a dream in the current market. So a windfall profits tax makes no sense. One way or another, it should be repealed.

The aim of the windfall levy, first imposed eight years ago, was to keep producers from making "excessive" profits following decontrol of domestic petroleum prices.

The effect, though, was to divert money from the oil industry into other investments. One industry official estimates that U.S. oil production would be 1 million barrels a day higher if this tax had not been imposed. So the policy contributes to America's dangerous over-reliance on foreign oil.

Moreover, the conditions that inspired the tax—the soaring oil prices of the late '70s—are no more. A decade ago some observers forecast $70-a-barrel oil. Their crystal balls were short on long-term vision.

Even though the windfall-profits tax raises no revenue when prices are low and the industry is struggling, it still imposes as much as $100 million yearly in paperwork costs on oil companies, according to the American Petroleum Institute. That expense discourages investment in new exploration.

The policy costs taxpayers, too. The federal government pays $13 million annually in administrative costs.

In Montana, oil production is at its lowest ebb of the past decade. It amounted to 24 million barrels in 1987. No federal windfall taxes were paid on this production, but there's little doubt that federal tax policies combined with dropping prices to create the drilling slowdown in this state and other domestic oil patches.

The U.S. oil industry should not be placed in a deep freeze until the next energy crunch arrives. A well-planned increase in exploration and production is preferable to the OPEC noose around our necks.

And this must be accompanied by a renewed emphasis on energy conservation and development of alternative fuels.

The foolishness in the federal tax policy has finally become clear to many legislators. Good sense won a partial victory in Congress when an amendment to repeal the tax was tacked onto trade legislation. But the trade bill contained some protectionist provisions, and the Senate sustained President Reagan's veto of the measure.

Congressional opponents of the levy owe it to both producers and consumers to continue their fight. They should begin the search now for a more worthy legislative vehicle for a repeal measure.

Foreign oil suppliers are the only parties who have reaped a windfall from this tax.●

COURT OF INTERNATIONAL TRADE REMANDS ANOTHER ITC OPINION

● Mr. HEINZ. Mr. President, as Senators know, I have on several occasions expressed my opposition to the nomination of ITC Chairman Susan Liebeler to the court of appeals for the Federal circuit. My opposition is based on her unique methods of analysis which have failed to withstand inspection by the Court of International Trade. On March 15 of this year, yet another of the Commission's rulings was remanded. The CIT overturned a negative injury determination in "Cold-Rolled Carbon Steel Plates and Sheets from Argentina." The CIT ordered this remand because it found that the determinations of two of the four commissioners comprising the majority negative determination were not supported by legally sufficient reasoning.

One of the two was Mrs. Liebeler. The other was Vice Chairman Anne Brunsdale, who is the subject of my comments today, because her mode of analysis has also been questioned and determined to be legally indefensible.

In the case I referred to, Commissioner Brunsdale reached a negative injury determination by using an elasticity of supply estimate to measure the effects of imports on domestic shipments, prices and sales. The Court of International Trade acknowledged that reliance on elasticity estimates has been held both reasonable and lawful in at least one previous case when it said that Commissioner Brunsdale's approach "has the potential for explaining, within the confines of the statutory framework, and in an improved manner, how less than fair value imports affected the domestic industry."

The Court, however, disapproved its use in the case at hand. The elasticity estimate used by Commissioner Brunsdale was based not on data collected in the investigation but on a Department of Commerce study which used data compiled between 1956 and 1976. One does not have to be an expert in economics to know that the steel industry in Pennsylvania has undergone quite a few changes since 1956.

The Court acknowledged the irrelevance of the statistics when it stated:

It is at least open to question whether data compiled for periods which were decades prior to this investigation can reliably be used to establish assumptions about the state of the current steel industry given subsequent advances in technology and other changes in the industry. This question cannot be ignored by the ITC if the elasticity estimate is to control the result.

I agree with this statement. Not only was the estimate very old, it did not pertain to the specific products of cold-rolled carbon steel plates and sheets but covered steel products in general.

Mr. President, I am disappointed that someone with Commissioner Brunsdale's background and experience would rely on empirical data which is so far from being reliable or relevant. I also have reservations about the use of elasticity and causation theory generally, but I will discuss that on another occasion. The theory's appropriateness is not the issue at hand in this case. Rather it is Commissioner Brunsdale's use of faulty data which leads to patently incorrect conclusions, no matter how fine the theory is. The use of selectively limited data to arrive at convenient conclusions about the elasticity of supply and demand only obfuscates the many subtle problems and transitions in the steel industry. I would suggest it is better to examine all the data available on each of the factors in the statute, as most ITC Commissioners have traditionally done, so that the most comprehensive picture can be obtained.

At the same time, I would be remiss if I did not mention that Commissioner Brunsdale has acknowledged her mistake and has agreed with the Court that it is better to allow the parties an opportunity to participate expressly in the process of estimating relevant elasticities. In her response to the Court's remand, Commissioner Brunsdale stated:

I understand the Court to be suggesting that evidence on the specific subject of elasticity estimates would be more acceptable if it were the subject of expert testimony to the Commission, submitted to scrutiny by the parties through adversarial participation in the administrative process, addressed to the specific products involved in the investigation, and founded in a contemporaneous assessment of the characteristics of the relevant industry. My approach in investigations subsequent to my decision on the original remand is responsive to each of the Court's concerns.

Mr. President, I raise these points today in the hope that Senators will seriously consider the methods by which the ITC arrives at its rulings. The Commission appears to be increasingly divided over its fundamental approach to injury analysis, and I believe there are a number of important questions to be answered with respect to Commissioner Brunsdale's faith in and utilization of elasticity estimates. ITC rulings have a major effect on jobs in this country. It is vital that these rulings are based on a solid reading of the law and congressional intent.●

LEGAL ANALYSIS OF THE APPROVAL OF THE COMPACT OF FREE ASSOCIATION BY PALAU

● Mr. JOHNSTON. Mr. President, on January 28, 1988, the Committee on Energy and Natural Resources held a hearing on legislation to authorize the entry into force of the Compact of Free Association between the United States and the Government of Palau. One of the issues which was discussed at this hearing was the constitutionality of the approval process of the compact in Palau. Representatives of the Government of Palau requested that a legal analysis of one aspect of this legal issue, done at their request by Geoffrey C. Hazard, Jr., professor of law at the Yale Law School, be put into the record of the committee's hearing. Unfortunately, that was not done.

In lieu of including this analysis in the hearing record, I request that it be printed in the RECORD along with the background vitae of Professor Hazard.

The material follows:

CURRICULUM VITAE

Geoffrey C. Hazard, Jr., Sterling Professor of Law, Yale Law School, Director, American Law Institute.

Address: Yale Law School, 401A Yale Station, New Haven, CT 06520-7397.

EDUCATION

Swarthmore College, B.A. 1953, Columbia University, LL.B. 1954. Honorary Degrees: M.A., Yale University 1971, LL.D., Gonzaga University, 1985, LL.D., University of San Diego, 1985.

PROFESSIONAL APPOINTMENTS

Admitted to practice: Oregon, 1954; California, 1960; Conn., 1982. Practiced in Oregon, 1954-57. Deputy Legislative Counsel, State of Oregon, 1956-57. Executive Secretary, Oregon Legislative Interim Committee on Judicial Administration, 1957-58. Executive Director, American Bar Foundation, 1964-70. Director, American Law Institute, 1984-

ACADEMIC APPOINTMENTS

Professor of Law, Yale University, since 1971; Garver Professor of Law 1976-81; Nathan Baker Professor of Law, 1981-86; Sterling Professor, 1986-

Associate Professor of Law, University of California, Berkeley, 1958-61.

Professor of Law, University of California, Berkeley, 1961-64.

Visiting Professor, University of Michigan, 1963.

Professor of Law, University of Chicago, 1964-71.

Visiting Professor, Stanford University, 1974.

Associate Dean, Yale School of Organization and Management, 1979–80.

Acting Dean, Yale School of Organization and Management, 1980–81.

Deputy Dean, Yale School of Organization and Management, 1981–82.

Visiting Professor, Universite d'Aix-Marseille, 1982.

Visiting Professor, Harvard University, 1983.

TEACHING SUBJECTS

Civil Procedure, Legal Ethics, Federal Jurisdiction.

PROFESSIONAL ACTIVITIES

Member, American Bar Association, Committee on Professional Discipline, 1985—

Reporter, American Bar Association Special Commission on Evaluaton of Professional Standards, 1978–83.

Reporter, American Law Institute, Restatement of Judgments, Second, 1973–81.

Reporter, American Bar Association Special Commission on Standards of Judicial Administration, 1971–77.

Consultant, American Bar Association Special Committee on Code of Judicial Conduct, 1970–72.

Member, Administrative Conference of United States, 1972–78.

Advisory Board, Yale Law and Policy Review.

Member: California State Bar, Connecticut Bar Ass'n, American Bar Ass'n, American Law Institute, Ass'n Bar of City of New York, Institute of Judical Administration, Fellows of American Bar Foundation.

BOOKS

Research in Civil Procedure (1963; Walter E. Meyer Research Institute of Law).

Law in a Changing America (1968; editor).

Quest for Justice (1973; editor, American Bar Association).

Going to Law School? (1974; editor, with Thomas Ehrlich).

Civil Procedure (3rd ed. 1985; with Fleming James, Jr.).

Ethics in the Practice of Law (1978).

Pleading & Procedure, State & Federal (5th ed. 1983; with D.W. Louisell and Colin Tait).

Managing complex litigation: A Practical Guide to the use of Spacial Masters (1983; with Wayne Brazil and Paul Rice).

The Legal Profession: Responsibility and Regulation (1985; editor, with Deborah Rhode).

The Law of Lawyering: A Handbood on the Model Rules of Professional Conduct (1985; with William Hodes).

Perspectives on Civil Procedure (1987; editer, with Jan Vetter).

REPORTS

(As reporter or draftsman)

Oregon Legislative Interim Commission on Judicial Administration, Vol. I (Judicial Administration), Vol. II (Juvenile Code) (1958).

California Special Legislative Commission on the Insanity Defense, Report (1962).

American Bar Association, Code of Judicial Conduct (1972).

American Bar Association, Standards of Judicial Administration (3 vol., 1974–77).

Legal Services for the Average Citizen, Report of A.B.A. Consortium on Legal Services (1977).

American Law Institute, Restatement Second of Judgments (1982).

American Bar Association, Model Rules of Professional Conduct, (1983).

National Assocation of Bond Lawyers, Function and Professional Responsibilities of Bond Counsel (1984).

ARTICLES

"May v. Anderson: Preamble to Family Law Chaos," 54 *Va. L. Rev.* 379 (1959)

"Oregon Administrative Procedure Act—Status and Prospects," 39 *Ore. L. Rev.* 97 (1960).

"Indispensable Party: The Historical Origin of a Procedural Phantom." 61 *Colum. Law Rev.* 1254 (1961).

"Insanity as a Defense: The Bifurcated Trial." 49 *Calif. L. Rev.* 805 (1961) (with D. W. Louisell).

"Death, the State, and the Insane: Stay of Execution," 9 *U.C.L.A. Rev.* 381 (1962) (with D. W. Louisell).

"Early Evolution of the Common Law Writs: A sketch," 6 *Am. J. Legal, Hist.* 114 (1962).

"An Historical and Critical Analysis of Interpleader," 52 *Calif. L. Rev.* 706 (1963); with Myron Moskovitz).

"The Research Program of the American Bar Foundation," 51 *A.B.A.J.* 539 (1965).

"Reflections on Four Studies of the Legal Profession," in *Law and Society, A Supplemental to Social Problems* (Summer, 1965).

"After the Trial Court—The Realities of Appellate Review," in Jones, Harry W., ed., *The Courts, the Public and the Law Explosion* (1965).

"A General Theory of State-Court Jurisdiction," 1965 *Sup. Ct. Rev.* 241.

"Rationing Justice," 8 *J. Law & Econ.* 1 (1965).

"Limitations on the Uses of Behavorial Science in the Law," 19 *Case Western L. Rev.* 71 (1967).

"The Ombudsman: Quasi-Legal and Legal Representation in Public Assistance Administration," in Sherrard, ed., *Social Welfare and Urban Problems* (1968).

"Challenges to Legal Education," in Sutherland, ed. *The Path of the Law from 1967* (1968), pp. 185–194.

"Epilogue to the Criminal Justice Survey," 55 *A.B.A.J. 1048* (1969).

"Social Justice Through Civil Justice," 36 *U. Chi. L. Rev.* 699 (1969).

"Law Reforming in the Anti-Poverty Effect," 37 *U. Chi. L. Rev.* 242 (1970).

"Legal Problems Peculiar to the Poor," 26 *J. Social Issues* 47 (1970).

"Securing Courtroom Decorum," 80 *Yale L. J.* 433 (1970).

"Res Nova in Res Judicata," 44 *So. Calif. L. Rev.* 1036 (1971).

"Court Finance and Unitary Budgeting," 81 *Yale L. J.* 1286 (1972; with Martin B. McNamara and Irwin F. Sentilles, III).

"Attorneys' Responsibilities and Duties Under the Securities Laws," in Goldberg, Stuart C., ed., *Expanding Responsibilities Under the Securities Laws* (1973).

"The Effect of the Class Action Device Upon the Substantive Law," 58 *FRD* 299 (1973).

"Legal Services in the U.S.A.," 2 *Intern Journ. of Crim. and Pen. 43 (1974).*

"Chancery Procedure and the Seventh Amendment: Jury Trial of Issues in Equity Cases before 1791," 83 *Yale L. J.* 999 (1974) (with Harold Chesnin).

"Law School 'Law' and Sociolegal Research," 50 *Denver L. J.* 403 (1974).

"Rethinking Legal Ethics," 26 *Stan. L. Rev.* 1227 (1974).

"Conscience and Circumstance in Legal Ethics," in Hodges, ed., *Social Responsibility: Journalism, Law, Medicine* (Wash. & Lee Univ., 1975).

"Administration of Supporting Services in the Trial Court," 1 *Justice System Journal* 3 (1975).

"Representation in Rule-Making," in Schwartz, ed., *Law and the American Future* (1975).

"The Tennessee Administrative Procedure Act: An Outsider's Perspective," 6 *Memphis State U. L. Rev.* 143 (1976).

"Standards of Judicial Administration: Appellate Courts," 62 *A.B.A.J.* 1015 (1976).

"The Jurisprudence of Juvenile Deviance," in Rosenheim, ed., *Pursuing Justice for the Child* (1976).

"Requisites of a Valid Judgment," 24 *Practical Lawyer* 35 (1978).

"The Supreme Court as Legislature," 64 *Cornell L. Rev.* 1 (1978).

"An Historical Perspective on the Lawyer-Client Privilege." 66 *Calif. L. Rev.* 1061 (1978).

"Talking to Your Lawyer," *MBA*, May 1978, 17.

"The Legal and Ethical Position of the Code of Professional Ethics," V *Social Responsibility: Journalism, Law, Medicine* (Wash. & Lee Univ., 1979).

"Interstate Venue," 64 *Nw. L. Rev.* 711 (1979).

"Proposed Revision of the Rules of Legal Ethics in the United States," in *Am. Bar Ass'n, American/Australian/New Zealand Law: Parallels and Contrasts* (1980).

"Guidelines for Claims of Privilege," United States v. Am. Tel. & Tel. Co., 86 F.R.D. 603 (1980) (with Paul Rice).

"Rules of Legal Ethics: The Drafting Task," 36 *The Record* 77 (1981).

"Revisiting the Second Restatement of Judgments: Issue Preclusion and Related Problems," 66 *Cornell Law Review* 564 (1981).

"The Lawyer's Obligation to be Trustworthy When Dealing with Opposing Parties," 33 *South Carolina Law Review* 181 (1981).

"How Far May a Lawyer Go in Assisting a Client in Legally Wrongful Conduct?," 35 *U. of Miami Law Review* 669 (1981).

"Will the ABA Draft Model Rules of Professionial Conduct Change the Concept of the Lawyer's Role?," Association of the Bar of the City of New York, Third Orison Marden Memorial Lecture (1981).

"The Lawyer's Pro Bono Obligation," in ABA *Proceedings of the Second National Conference on Legal Services and the Public* (1981).

"Do Lawyers *Really* Need New Disciplinary Rules?," 53 *Cleveland Bar Journal* 1 (1981).

"Legal Ethics!: Legal Rules and Professional Aspiration." 30 *Cleveland State Law Review* 4 (1982).

"Arguing the Law: The Advocate's Duty and Opportunity." 16 *Georgia Law Review* 821 (1982).

"Judicial Management of the Pretrial Process in Massive Litigation: Special Masters as Case Managers," 1982 *Am. Bar Found. Res. J.* 375 (with Paul R. Rice).

"Overview of the Criminal Justice System," in Encyclopedia of Criminal Justice (1982).

"Competing Aims of Legal Education," 59 *No. Dakota L. Rev.* 533 (1983).

"Why Lawyers Should be Allowed to Advertise: A Market Analysis of Legal Services," 58 *N.Y.U.L. Rev.* 1084 (1983), (with Russell Pearce and Jeffrey Stempel) republished in Italian, Perche Agli Avvocati Dovrebbe Essere Cnsentito L'Uso Della Pubblicita, 32 Rivista Di Diritto Civile 277 (1986).

"Legal Ethiics," in Gillers, ed., *Looking at Law School* (1984).

"Preclusion as to Issue of Law: The Legal System's Interest," 70 *Iowa Law Review* 81 (1984).

"The Technical Expert in Procedure: U.S. National Report," in Nicklisch, ed., Der Technische Sachverstandige im Prozess, VII. Internationaler Kongress fur Prozessrecht, p. 207 (1984).

"Rectification of Client Fraud: Death and Revival of a Professional Norm," 33 *Emory L.J.* 271 (1984).

"Reflections on the Substance of Finality," 70 *Cornell L. Rev.* 642 (1985).

"Curriculum Structure and Faculty Structure," 35 *J. Legal Ed*, (326 (1985).

"The Position of the Supreme Court in the Contemporary Constitutional System of the United States," in Lombardi, Ed., Constituzione e Giustizia Constitutiozionale nel Diritto Comparato (Centro Italiano per lo Sviluppo della Ricerca, 1985).

"Ethical Consideration in Withdrawal, Expulsion, and Retirement [from a Firm]," in Berger, ed., Withdrawal, Retirement & Disputes, Am. Bar Ass's Section of Economics of Law Practice (1986).

"Court Delay: Toward New Premises", 5 Civil Justice Q. 236 (1986), in Italian, Costo e Durata del Processo in Italia e in U.S.A., XXXII Rivista di Diritto Civile 271 (1986)

"Principles in Legislation," 41 The Record 685 (1986) (Cardozo Lecture).

"Rising Above Principle," 135 U. Penna. L. Rev. 153 (1986) (Roberts Lecture).

"A Lawyer's Privilege Against Self-Incrimination in Professional Disciplinary Proceedings," 96 Yale L.J. 1060 (1987) (with Cameron Beard).

"Triangular Lawyer Relationships: An Exploratory Analysis," 1 Georgetown L. Legal Ethics 15 (1987).

YALE LAW SCHOOL,
401A YALE STATION,
New Haven, CT, November 17, 1987.

ARNOLD H. LEIBOWITZ, Esq.,
Busby, Rehm and Leonard, P.C., Suite 200, 1330 Connecticut Avenue, N.W., Washington, DC.

DEAR MR. LEIBOWITZ: On behalf of the Government of Palau you have asked for my opinion whether the doctrine of res judicata, particularly the rule of claim preclusion, will bar relitigation of the legal controversy concerning the ratification of the Compact of Free Association between the Republic and the United States. Although the question is seriously arguable on both sides, in my opinion the rule of claim preclusion does operate and ought to be applied by a court called upon to decide the question.

1. The rule of Claim Preclusion

The rule of claim preclusion is that when a final judgment has been entered, "the claim is extinguished." Restatement Second of Judgments S17. Under this rule, "the claim extinguished includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose." Restatement Second of Judgements S24(1). Comment *a* to S24 states:

"The present trend is to see [the term] claim in factual terms and to make it coterminous with the transaction regardless of the number of substantive theories, or variant forms of relief flowing from those theories, that may be available to plaintiff; regardless of the number of primary rights that may have been invaded; and regardless of the variations in the evidence needed to support the theories or rights. The transaction is the litigative unit or entity which may not be split."

The claim in the present situation included a request for a declaratory judgment along with a demand for an injunction. With particular regard to actions involving a request for a declaratory judgment, Comment *d* to Restatement Second of Judgments S33 states:

"Pleaders sometimes interpolate declaratory prayers redundantly in standard actions but this should not produce differences in the res judicata consequences of those actions. Thus a pleader demanding money damages may also ask for a corresponding declaration. For res judicata purposes the action should be treated as . . . concluded . . . with the usual consequences of merger, bar, and issue preclusion. The same applies to a prayer for a declaration which would be the substantial equivalent of a judgment of rescission or reformation."

As further discussed herein, I conclude that the consent judgment enterd at the instance of the Ibedul in *Merep v. Salii*, an action that challenged the validity of the ratification of the Compact of Free Association between the Republic of Palau and the United States, precludes reasertion of a claim that the ratification was invalid.

2. The Prior Litigation Over COFA

The Compact of Free Association ("COFA") is a proposed agreement between the Republic of Palau and the United States that is to govern the future relationships between the signatories. Among other provisions of COFA is one that has the effect of permitting United States forces to enter Palauan territory and make use of facilities therein notwithstanding that those forces may be equipped with nuclear-powered naval and air craft and nuclear weapons. This provision in particular was highly material in the negotiation of COFA and also highly controversial among a significant portion of the population of Palau. According to the Constitution of Palau prior to the Constitutional Amendment of August, 1987, a vote of 75 percent of the voters would be required for such a provision concerning nuclear forces to be approved on behalf of the Republic of Palau. Under the Constitution of Palau as amended in August, 1987, the Republic's approval could be given with less than such supermajority.

There have been several elections in which the nuclear forces provision has been at issue. The intense political controversy disturbed the domestic situation in Palau and also complicated and protracted the negotiations with the United States Government. In each of these elections a substantial majority of votes favored the proposed arrangement, but not a majority exceeding 75 percent. Accordingly, the question of procedure for approval of the provision turned out to be critical.

The question of procedure for approval of the provision has been the subject of several suits in the courts of Palau. One of these was *Innbo v. Republic of Palau.* This suit was filed before the Constitutional Amendment but was settled concurrently with the settlement in *Merep v. Salii. Merep v. Salii* was filed July 29, 1987, by three Palau plaintiffs against Lazarus Salii, President of Palau, and other officers of the Republic. The plaintiffs in *Merep v. Salii* alleged themselves to be "citizens, residents, taxpayers, and registered voters," The action sought an injunction against holding an election to ratify an amendment to the Constitution of Palau that would permit approval of COFA by less than a 75 percent majority of the voters. The action further sought an injunction against a second election that would be conducted pursuant to that amendment and in which the approval of COFA was to be submitted to vote of the people. The action thus challenged the validity of the amendment and any election pursuant to it.

The request for a preliminary injunction in *Merep v. Salii* was denied. An election was held in which the Amendment to the Constitution was approved. A further election was thereupon held under the amended Constitution. In the second of these elections, 73 percent of the votes favored the proposed COFA. Under the amended Constitution, this was a sufficient vote to ratify COFA.

Thereafter, on August 28, 1987, *Merep v. Salii* was dismissed by stipulation. The stipulation stated:

"The parties hereto, by and through their respective attorneys, hereby stipulate that the above-entitled cause be dismissed with the following stipulations:

"(1) That the Compact of Free Association has been approved and ratified by democratic means and ratified by the Olbiil Era Kelulua in Senate Resolution No. 2-101 and House Resolution No. 2-0065-16S thereby rendering the Complaint herein effectively moot;

"(2) That the Memorandum of Understanding by and between the President Lazarus E. Salii of the Republic of Palau and High Chief Ibedul of Koror State, Republic of Palau, dated August 28, 1987, which will be honored by the parties thereto, and is incorporated by reference."

The Memorandum of Understanding referred to above recites that

"High Chief Ibedul has been a consistent and forceful opponent of the Compact of Free Association, specifically with regard to the provisions therein authorizing the United States to bring nuclear-propelled and nuclear capable vessels and aircraft into the territory of the Republic . . ."

The Memorandum also states that the people of the Republic had twice voted overwhelmingly an approval of COFA. It goes on to provide that "the Ibedul shall cause to be dismissed the pending Civil Action," i.e., *Merep v. Salii*; that the President agrees that the power of eminent domain will not be used to acquire land for use by the United States under the Compact; and that "Both President Salii and High Chief Ibedul agree to henceforth cooperate toward the progressive development of the Republic of Palau . . . and to lead the Republic of Palau toward the honorable end of the Trusteeship period . . ."

One judicial day after entry of the settlement and consent judgment described above, the action of *Ngirmang v. Salii* was filed. This action was by women citizens, describing themselves as "citizens, residents, taxpayers and registered voters and electors." It challenged the procedures used for the approval of COFA on essentially the same grounds as had been advanced in *Merep v. Salii.* Defendant moved to dismiss on the ground of res judicata. The motion was opposed on the grounds that "the plaintiffs in the *Merep v. Salii* case did not represent us 'women'" and that "Therefore, their agreement with the government will not prevent us from bringing this action through our Constitutional rights." On September 8, 1987, a stipulation for dismissal of *Ngirmang v. Salii* "on the merits" was entered, apparently signed by all the plaintiffs. This dismissal was entered along with a memorandum by Justice Hefner. The judge's memorandum stated that the dis-

missal was pursuant to Rule 41(a)(1), identical with the counterpart provision of the Federal Rules of Civil Procedure, and also that "There are indications in the record and in the proceedings in this matter that the Dismissal signed by the Plaintiffs may not be voluntary. There are indications that the Dismissal was brought by intimidation through the use of violence."

Neither *Merep v. Salii* nor *Ngirmang v. Salii* was designated as a class suit, and in neither proceeding were any steps taken under Rule 23 to certify the suit as a class suit. Rule 23 is identical to the counterpart in the Federal Rules of Civil Procedure, and indeed the whole procedural code in the Palau courts corresponds to the Federal Rules.

3. The Specific Question Presented

The essential question is whether the consent judgment entered in *Merep v. Salii* should preclude a later suit challenging the procedure used in the approval of COFA by the Republic of Palau. No opinion is expressed as to whether the judgment in *Ngirmang v. Salii* had such an effect. If *Merep* is preclusive, *Ngirmang* is essentially irrelevant, while if *Merep* is not preclusive *Ngirmang* does not add preclusive effect. The question to be addressed therefore is the preclusive effect of *Merep v. Salii.*

There are two ways in which the effect of *Merep v. Salii* can be considered. The first is to consider it a representative suit of some kind by the named plaintiffs against the President, Mr. Salii. The second is to consider the effect of the Ibedul's involvement and the consent judgment on the basis of the settlement agreement between him and Mr. Salii.

4. *Merep v. Salii* as a Representative Suit

Merep v. Salii could be considered to be a non-class representative suit by the named plaintiffs as citizens, taxpayers, and voters, challenging public action by officials of government. In times past, suits of this character were sometimes recognized as properly maintainable even though not denominated as class suits, essentially on the pattern of a derivative suit by a single stockholder. In the corporate derivative suit, the right asserted by the stockholder is derivative from the corporate body, the stockholder being regarded as representing the interest of the corporate body as such rather than the interest of other stockholders as such. By the same token, a citizen or taxpayer could enforce a right concerning a public corporate body without undertaking or purporting to maintain the action as a class suit. On this basis, the plaintiffs in *Merep v. Salii* could be regarded as proceeding in a representative capacity even though they did not proceed through a class suit. It would follow that the dismissal of their action could be regarded as having the claim preclusive effects of a representative action even though it was not a class suit. Compare Restatement Second of Judgments S59, Comment *c* and Reporter's Note thereto.

However, while the foregoing analysis is analytically tenable, in my opinion it would be unlikely to prevail. The disposition by the individual plaintiffs in *Merep v. Salii* could have preclusive effect on later litigation challenging the approval of COFA only if those plaintiffs were regarded as representative of other citizens, taxpayers, or voters. Rules 23, 23.1 and 23.2 contemplate that a representative suit should proceed under active supervision and control of the court, particularly in regard to dispositions based on settlement. No such supervisory measures were engaged in *Merep v. Salii.* In my opinion the dismissal of a citizens derivative suit on the basis of a settlement would not be regarded as preclusive against other citizens in the absence of review and approval by the court substantially as required by Rule 23(d) and (e). See, 7B Wright, Miller & Kane, Federal Practice & Procedure S1997; Note, 84 Mich.L. Rev. 308 (1985).

5. The Participation of the Ibedul

The involvement of the Ibedul in the settlement presents very different considerations. The Ibedul has standing in the matter in virtue of his office and authority as such, authority that is extrinsic to the litigation and which does not derive from his designation as a party in the litigation or because he purported therein to be a party representative of others. In substance, the Ibedul intervened in the litigation and thereupon entered into a settlement with the opposing party, President Salii. Alternatively, the situation can be considered as one is which the Ibedul took notice of the litigation without having intervened as a party. On either analysis, he exercised authority on the basis of his office to reach a settlement that terminated the legal controversy and which was then memorialized in a consent judgment of dismissal. The substance of the settlement is clear: That the challenge to approval of COFA was dropped, that the Ibedul's instrumental role in the negotiations over COFA was recognized, that the powers of the Council of Chiefs were enlarged with respect to lands available to the United States under COFA, and that the people of the Republic of Palau should proceed to their independent status as a freely associated state. The essential question is whether such a settlement is binding so as to preclude subsequent reassertion by taxpayers, citizens or voters of the claim resolved in the settlement.

6. The Authority of the Ibedul

According to information provided me, the office or societal role of the Ibedul involves several aspects. The office is a traditional chiefdom, indigenous to Palau, that originated before the overlay of colonial control and which has continued through the various Spanish, German, Japanese, and American administrations. It has recognition in terms both of the traditional law of Palau and of the State of Koror ("customary law" in Western terminology) and of the modern Palauan law of Western origin. The Constitution of the State of Koror provides various express and implied references to traditional law, authority and leadership. See particularly Articles III (citizenship), IV, Sec. 2 (preservation of "role or function of a traditional leader as recognized by custom and tradition"), VI, Sec. 1 ("The House of Traditional Leaders, consisting of the Nigarameketii and Rubekulkideu shall be the supreme authority of the State of Koror.") and Sec. 2(3) (The House of Traditional Leaders . . . shall represent the State in engaging in any dialogue with any entity, including . . . the national government of the Republic of Palau . . .". See also the discussion in *Acting High Chief Reklai v. Isimang,* Civil Action No. 144-80, Trial Division, Supreme Court of Palau March 12, 1982.

The Ibedul has a capacity in the State of Koror as such and in Palau as such. The State of Koror is the state in which most of the population of Palau now lives and in which is located the nation's capital and center of its political life. The Ibedul is the president and speaker or spokesman of The House of Traditional Leaders of Koror, a status by lifetime appointment that approximates that of head of state. In virtue of and in addition to that status, the Ibedul is the traditional leader of those communities now called states that comprised the Southern Confederation in traditional Palauan society. His counterpart is the Reklai, whose office is based in the state of Melekeok in the Northern Confederation. However, the Ibedul has a national stature as well, owing partly to the stronger position of Koror as the largest state and partly to his own public presence, character and abilities. For example, in practice the Ibedul convenes the Council of Chiefs of Palau. Thus, in terms of traditional law, preserved by the Palau as a whole as well as Koror. In the Western tradition, an analogy may be drawn between his position and that of the King of Austria in the late medieval Holy Roman Empire of the German Nation, who was titularly only one sovereign among sovereigns but in established practice was the head of the collective entity.

The Ibedul has like leadership authority within the State of Koror and in the Idid clan, one of the ten traditional clans of Koror, and in his village. The authority of the Ibedul in his multiple roles is both secular and founded on traditional religion. In the controversy over COFA in particular, the Ibedul was the national spokesman for the opposition. He participated extensively and influentially, both in the domestic aspects of the controversy in Palau and in international forums, most notably his appearance before the United Nations Trusteeship Council.

Obviously there is no exact counterpart to the Ibedul in the American jurispurdence. Reference to American jurisprudence is required, however, because the American doctrine of res judicata is applied in Palauan law to determine the effect of a prior judgment.

7. The Applicable Law

Section 303 of 1 Palau National Code provides:

"Rules of the common law, as expressed in the Restatements of the Law approved by the American Law Institute, and, to the extent not so expressed, as generally understood and applied in the United States, shall be the rules of decision in the courts of the Republic in applicable cases . . ."

Accordingly, substantial reliance is placed on the Restatement Second of Judgments in this opinion. Moreover, as noted, Palau has adopted the Federal Rules of Civil Procedure. The scope of the rules of res judicata, including claim preclusion, are intimately connected to the rules of procedure upon which a judgment is predicated. See Restatement Second of Judgments, Introduction pp. 6-9. Federal decisions on matters of res judicata therefore are also authoritative. See Restatement Second of Judgments S87, Comment *a.* In any event, the most relevant precedents are federal court decisions and on the question at issue there appears to be no significant divergence between the law as announced in those decisions and that found in other decisions.

8. The Conclusiveness of a Consent Judgment

The judgment in *Merep v. Salii* entered pursuant to the stipulation between the Ibedul and the defendants was a consent judgment. The preclusive effect of such a judgment has two aspects. One aspect is the preclusion of issues, the other is the preclusion of the claim involved. A consent judgment may result in issue preclusion only where the agreement for judgment resolves certain facts that have been contested. However, no problem of issue preclusion is pre-

sented in the present case because no relevant factual resolutions were included in the judgment. The relevant aspect of the judgment in *Merep v. Salii* therefore is its claim preclusive effect.

As stated in 18 Wright, Miller & Cooper, Federal Practice and Procedure S4443:

"Consent judgments entered upon settlement by the parties may assume forms that range from simple orders of dismissal with or without prejudice to detailed decrees . . . [T]he judgment results from a basically contractual agreement of the parties . . .

"The basically contractual nature of consent judgments has led to general agreement that preclusive effects should be measured by the intent of the parties. In most circumstances, it is recognized that consent agreements ordinarily are intended to preclude any further litigation on the claim presented but are not intended to preclude further litigation on any of the issues presented. Thus consent judgments ordinarily support claim preclusion but not issue preclusion."

Although the claim preclusion and issue preclusion effects of a judgment are analytically distinct, claim preclusion may have the effect of precluding opportunity for further litigation of issues involved in the claim. Thus, if a corporation settles a claim without having litigated the issues therein, the settlement is generally conclusive on the corporation's stockholders. See Restatement Second of Judgments S59. This effect follows although the stockholders might otherwise have a right to bring suit on behalf of the corporation and, in the course thereof, to litigate issues upon which the claim depends. Hence, when a claim is resolved by a consent judgment, claim preclusion prevents reopening the claim by reasserting issues upon which the claim depended. That principle applies generally to litigation affecting the interests of a person that are under the managing authority of another. See Restatement Second of Judgments S41, Comment *b* and Illustrations 1 and 2.

Concerning the intent of the parties to the settlement in *Merep v. Salii*, there is no question as to what that intent was. Apart from the usual recitals in a settlement are its references to the importance of resolving the controversy over COFA for the political stability and future national identity of Palau. In addition there were extensive contemporaneous public statements to this effect by the Ibedul and the President. Hence, the consent judgment was intended to terminate the legal claim involved. The question then is whether this settlement between the Ibedul and President Salii and the other defendants is conclusive upon citizens of Palau who may yet wish to relitigate the issue.

9. The Representative Position of the Ibedul

The conclusiveness of the settlement depends upon the Ibedul's position as a representative. The concept of representation is often specifically associated with class suits but the scope of the concept is much broader. As stated in 18 Wright, Miller & Cooper, supra, S4454:

"The most pervasive principle that extends preclusion to nonparties relies on representation by a party . . . Representative capacity must be established . . . by private or public appointment . . . The most general representative capacities involve management of another person's interests for purposes that go beyond a particular lawsuit . . . Such representatives are established by private appointment, by public designation, or a combination of private appointment and public confirmation. The broad managerial purposes that underlie the representative capacity include authority to conduct litigation that concerns the interests being managed."

The closest analogy to the Ibedul that is found in American law is of course the position of chief of a Native American tribe. Another analogy is to the head of a state or municipal government or a municipal corporation. Another is to the head of a polity having some characteristics of a national state even through it is a constituent of a larger federation, such as the Province of Quebec in relation to Canada. Another is to the chief officer of a nonprofit membership corporation or the counterpart officer of an unincorporated public association.

Under any of these analogies, the chief of the entity has general authority to act for the entity in litigation. The entity in turn has authority to conduct and conclude litigation that is preclusive upon its members as regards entity activities and transactions. See generally Restatement Second of Judgments.

Another analysis of the Ibedul's authority is suggested by the fact that the Ibedul is head not simply of a polity but also of a clan and a group of interconnected clans. A group of clans is considered a family or extended family for some purposes. On that basis, the Ibedul can be considered the head of a family who in the present instance has assumed responsibility for concluding a legal dispute on behalf of the family.

Of these analgies, as indicated above the closest analogy to the Ibedul as a representative of Palau citizens concerns judgments in litigation involving Native American tribes. The most recent relevant decision is *Arizona v. California*, 460 U.S. 605 (1983). That case involved the effect of a prior judgment in litigation conducted by the United States on behalf of a Native American tribe. Claim preclusive effect was given to the judgment. Since that judgment was preclusive on the tribe and its members, a judgment entered by act of the tribe itself, acting through its leader, ought to be accorded at least as full effect. In *Arizona v. California*, the Supreme Court stated, 460 U.S. at 626-627:

"Finally, the absence of the Indian Tribes in the prior proceedings in this case does not dictate or authorize relitigation of their reserved rights. As a fiduciary, the United States had full authority to bring the . . . rights claims for the Indians and bind them in litigation. *Heckman v. United States*, 224 U.S. 413 (1912). We find no merit in the Tribes' contention that the United States' representation of their interests was inadequate whether because of a claim conflict of interests arising from the government's in securing water rights for other federal property, or otherwise."

In a footnote to its citation of *Heckman*, supra, 460 U.S. at 627 n. 20, the Court stated:

"Contrary to the dissent . . . *Heckman's* square holding that the United States' representation of Indian claims is binding . . . has not been undermined, let alone 'repudiated,' by subsequent cases . . . (citing and discussing precedents)."

Moreover, earlier in its opinion in *Arizona v. California*, the Court referred to the importance that claim preclusion has to stability of the property interests that were involved in the litigation in that case. 460 U.S. at 620. It can be said that the same considerations of stability apply, perhaps even more forcefully, in settlement of constitutional issues such as those involved in *Merep v. Salii*.

The principle of preclusion through a representative has been applied in cases involving unincorporated associations. See generally Wright, Miller & Cooper, supra, S4456. The most recent Supreme Court case in point, *International Union, UAW v. Brock*, 106 S.Ct. 2523 (1986), speaks to the standing of an association to litigate matters concerning its members. However, the issue of standing correlates to the issue of res judicata, for if the litigation by an association does not have preclusive effect on the claims involved, it would hardly be worthwhile to sustain the association's standing to sue. As the court said, 106 S.Ct. at 2532-33:

"While a class action creates an *ad hoc* union of injured plaintiffs who may be linked only by their common claims, an association suing to vindicate the interests of its members can draw upon a pre-existing reservoir of expertise and capital . . .

"In addition, the doctrine of associational standing recognizes that the primary reason people join an organization is often to create an effective vehicle for vindicating interests that they share with others."

At the same time, the Court noted, 106 S.Ct. at 2533:

"Should an association be deficient [in adequately representing the interests of its members] . . . a judgment won against it might not preclude subsequent claims by the associations members without offending due process principles. . . . However, the Secretary has given us absolutely no reason to doubt the ability of the UAW to proceed here on behalf of its aggrieved members, and his presentation has fallen far short of the heavy burden of persuading us to abandon settled principles of associational standing."

For applications of the principle of claim preclusion in litigation by associations, see also *Washington v. Washington State Commercial Ass'n*, 443 U.S. 658 (1979); *Ellentuck v. Klein*, 570 F.2d 414 (2d. Cir. 1978); *Bolden v. Pennsylvania State Police*, 578 F.2d 912 (3rd Cir. 1978).

Application of claim preclusion on the basis of family relationship has usually occurred in contexts involving future interests in property, under the rubric of "virtual representation." See Wright, Miller & Cooper, supra, S4457. In recent years the concept of virtual representation has been applied in a variety of factual contexts, many of which can be compared with the situation in *Merep v. Salii*. See *United States v. ITT Rayonier, Inc.*, 627 F.2d 996 (9th Cir. 996 (1980) (two agencies of government); *United States v. Geophysical Corp.*, 732 F.2d 693 (9th Cir. 1984) (general partner and limited partner). However, it must be recognized that the definition of virtual representation is somewhat amorphous and it is difficult to forecast when it will be applied so as to accord preclusion to a consent judgment. See, e.g., *Delta Airlines, Inc. v. McCoy Restaurants, Inc.*, 708 F.2d 582 (11th Cir. 587 (1983); *Fuji Photo Film Co. v. Sinohara Shoji Kabushiki Kaisha*, 754 F.2d 591 (9th Cir. 1985).

Perhaps the strongest analogy to the situation in *Merep v. Salii* is representation of a citizen by a governmental body of which he is a member. The Idebul was chief of state to the State of Koror and of a tribal and clan unit that is analogous to a municipal corporation. On that basis, the essential question is whether the claim involved in

the prior action was essentially or primarily a public claim as distinct from being essentially a private party claim. As stated in 18 Wright, Miller & Cooper, supra, at 512-513:

"Problems of preclusion between private and governmental litigation must be addressed by tests quite different from those that apply to preclusion among different governmental bodies. Many questions can be answered readily. If the rights asserted are so far public that private suitors lack standing to pursue them, there is no occasion to worry about preclusion between public and private litigation. Many rights, on the other hand, are so manifestly individual and private that the government either lacks occasion to litigate at all or clearly cannot foreclose private remedies. In the center, however, delicate questions may arise as to the interplay between public and private rights. In this area, government litigation may at times preclude private litigation that seeks meaningful individual relief."

Illustrative of preclusion from a prior judgment in litigation by a public authority is *City of Tacoma v. Taxpayers of Tacoma*, 357 U.S. 320 (1958), where the public body had unsuccessfully opposed issuance of a license for a power facility and then individual citizens sought similar relief. See also, e.g., *Kersh Lake Drainage Dist. v. Johnson*, 309 U.S. 485 (1940); *Badgley v. City of New York*, 606 F.2d 358 (2d Cir. 1979); *Southwest Airlines Co. v. Texas Int'l Airlines, Inc.*, 546 F.2d 84 (5th Cir. 1977); *Rynsburger v. Dairymen's Fertilizer Cooperative*, 266 Cal.App. 2d 269, 72 Cal.Rptr. 102 (1968); Restatement Second of Judgments S41, Reporter's Note to Comment *d*.

In contrast to public enforcement actions concerning public rights, "it should be presumed that public enforcement actions are not intended to foreclose traditional common law claims or private remedies expressly created by statute." Wright, Miller & Cooper, supra at 515. The primary example of rights in the latter category are those arising under Title VII of the Civil Rights Act of 1964. See *General Telephone Co. v. EEOC*, 446 U.S. 318 (1980); see also, e.g., *Jones v. Caddo Parish School Board*, 735 F.2d 923 (5th Cir. 1984) (individual parent not bound by judgment in government agency action concerning school desegregation).

The subject matter of the litigation in *Merep v. Salii* clearly can be regarded as involving a "public right" that private parties have standing to present. Arguably, it might be regarded as involving both a public right and a concurrent private right. The public right concerns the validity of various procedures for approving COFA, it being in dispute whether the procedure of legislative action plus referendum was a valid alternative to the procedure of super-majority referendum. The Ibedul in his official capacities, domestically and in foreign relations on behalf of Palau, was intimately involved in that question and had vigorously participated in disputation over it prior to deciding that settlement of the matter was advisable. On that basis, the judgment involving the Ibedul is preclusive against reassertion of the same claim by private parties.

On the other hand, it would be possible to analyze the situation as involving a concurrent private right that is not precluded by determination of the public right. The private right could be said to be the interest of individual voters in establishing the exclusivity of the super-majority procedure for approving COFA in that such a procedure would give greatest weight to their individual votes. That is, the controversy could be said to be one over "voting rights." On this basis, there is authority that an individual right of action would survive termination of the public right. See *Town of Lockport v. Citizens for Community Action*, 430 U.S. 259, 263 n.7 (1977).

While the latter analysis is not wholly implausible, and an unqualified conclusion therefore not possible, it seems clear that the crux of the claim involved in *Merep v. Salii* is not whether the individual voters have a right to an undiluted franchise as electors, but whether the super-majority referendum procedure involving their unquestioned power as electors is exclusive of other procedures by which COFA might be approved. That is, it was not a question of whether or how much weight was to be given the ballots of the voting public, but whether the super-majority balloting procedure preempted procedures that did not require such balloting. In my opinion, this involves a "public right" that individual citizens may have standing to enforce but not a concurrent private right of the kind that should survive a resolution in litigation by a public authority. On that basis, the consent judgment terminated the claim and bars further relitigation of the controversy.

The conclusion that the consent judgment by the Ibedul precludes private parties from relitigating the issue of the procedure for approving COFA could be regarded as troubling. Resolution of the controversy by settlement obviated the involvement of the courts in determining the question. If the premise is adopted that a question of this character cannot be concluded without a judicial pronouncement through some kind of litigation, then the rule of preclusion seems to preempt the citizen's access to court and the participation of the courts in the process. In this day of pervasive judicial review, indeed it sometimes appears that no public question of major consequence can be resolved without a confirming decree.

Yet the fact remains that courts are properly involved only when there is a legally determinable controversy, even if that controversy involves public rights. The Ibedul is a high constitutional and traditional authority who was directly involved in a highly important, complex, and divisive question going to the organic foundations of his country. He reached the conclusion that the legal and political controversy over that question should be resolved by a publicly proclaimed compact with his erstwhile antagonist in the controversy. On that basis, he entered a consent judgment determining the legal claims involved. If such a "judgment call" were made by the head of an unincorporated association concerning an associational right, or by public agency concerning a public right, it would be officious for the courts to override the resolution on the ground that their pronouncement on the merits had not been obtained. The same would be true where the "judgment call" is made by an official whose authority rests both in public law and an affiliation recognized by traditional law.

Accordingly, I conclude that the consent judgment in *Merep v. Salii*, entered pursuant to the agreement between the Ibedul and President Salii, terminated the legal claim challenging the validity of the procedure by which COFA was ratified.

Sincerely,

GEOFFREY C. HAZARD, Jr.●

NATIONAL VIETNAM VETERANS' READJUSTMENT STUDY

● Mr. INOUYE. Mr. President, I am pleased to join my colleague from Hawaii in supporting an important measure which will authorize a phychological study of Asian-American and Polynesian-American Vietnam veterans. All veterans should receive equitable treatment, and this study will ensure that the psychological issues of this special group of our veterans are dealt in a focused and effective manner.

The proposed study would supplement the National Vietnam Veterans' Readjustment Study [NVVRS] of psychological problems. The NVVRS study is required to identify the psychological problems and needs of Vietnam veterans. In light of the large number of minority veterans, the NVVRS oversampled certain subgroups in order to obtain statistically significant results. Although the NVVRS took into account several minority populations and sampled them accordingly, Asian-Americans and Polynesian-Americans were not included in the groups oversampled.

The 1987 report of the Hawaii Veterans' Health Care Task Force recognized the unique cultural differences of the Asian-Americans and Polynesian-Americans, as compared to other ethnic groups. The task force concluded that the underutilization of treatment facilities by Asian-American and Polynesian-American veterans may be caused by cultural barriers, and does not necessarily indicate a lack of need for treatment.

The postwar experiences of Asian-Americans and Polynesian-Americans may differ from those of other groups and must be studied in further specificity. The task force report noted that Asians and Polynesians traditionally have a "sense of great patience and forbearance" and tend not to vocalize their complaints. The task force reported that the cultural values of the two groups may cause psychological problems unique to their particular groups.

In addition to their culture, Asian-Americans also had the added burden of their ethnicity. In Vietnam, Asian-Americans were engaged in war in which they looked just like the enemy. This is an important factor to consider since it may have resulted in additional psychological difficulties.

There were approximately 85,000 Asian-American veterans who served in the armed services during the Vietnam era. In light of the task force's conclusion that Polynesian and Asian-American veterans may have unique problems which have a bearing on their seeking needed treatment, it is inconceivable that a group of this size would not be considered significant enough to warrant a study to deter-

mine the psychological effects of the Vietnam conflict.

This measure will provide for a study to determine the psychological needs of Asian-American and Polynesian-American Vietnam veterans. I believe that it is vital that we provide equitable care for all of our veterans who served bravely in Vietnam. Regardless of their ethnicity, all of our Nation's veterans are entitled to the most focused and effective treatment for physical and psychological problems.

The Veterans' Committee, in their wisdom included this important study in S. 2011 which it recently approved, and is currently preparing for consideration by the full Senate. I urge my colleagues to support this study, embodied in S. 2011, when it reaches the Senate floor.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Elizabeth Gardner, a member of the staff of Senator HEFLIN, to participate in a program in Taipei, Taiwan, by the Tamkang University, from July 15–23, 1988.

The committee has determined that participation by Ms. Gardner in the program in Taipei, Taiwan, at the expense of Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Laurie Sedlmayr, a member of the staff of Senator DECONCINI, to participate in a program in Taipei, Taiwan, by Soochow University, from July 15–24, 1988.

The select committee has received a request for a determination under rule 35, for Mr. Joseph Britt, a member of the staff of Senator KASTEN, to participate in a program in Taipei, Taiwan sponsored by the Tamkang University, from July 15–24, 1988.

The committee has determined that participation by Mr. Britt in the program in Taiwan, at the expense of the Tamkang University, is in the interests of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Dave Sullivan, a member of the staff of Senator HELMS, to participate in a program in Johannesburg, South Africa, sponsored by the Institute for American Studies of the Rand Afrikaans University, from July 14–25.

The committee has determined that participation by Mr. Sullivan in the program in South Africa, at the expense of the Institute for American Studies, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Jo Sherman, a member of the staff of Senator SIMPSON, to participate in a program in Chile sponsored by the Adolfo Ibanez Foundation, from July 16–22, 1988.

The committee has determined that participation by Ms. Sherman in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tom Kleine and Mr. Gordon Macdonald, members of the staff of Senator HUMPHREY, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from July 16–23, 1988.

The committee has determined that participation by Mr. Kleine and Mr. Macdonald in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Mark Irion, a member of the staff of Senator DIXON, to participate in a program in Toronto, Canada, sponsored by the International Exchange Council, from July 17–21, 1988.

The committee has determined that participation by Mr. Irion in the program in Canada, at the expense of the International Exchange Council, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. William P. Pitts, a member of the staff of Senator HEINZ, to participate in a program in Taipei, Taiwan, sponsored by the Tunghai University, from July 17–25, 1988.

The committee has determined that participation by Mr. Pitts in the program in Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Anthony R. Hemstad, a member of the staff of Senator EVANS, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from July 16–23, 1988.

The committee has determined that participation by Mr. Hemstad in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Senator and Mrs. Hatfield, participate in a program in Taiwan sponsored by the Chinese Cultural University, from July 18–22, 1988.

The committee has determined that participation by Senator and Mrs. Hatfield in the program in Taiwan, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Rita Lewis, a member of the staff of Senator DASCHLE, to participate in a program in Taichung, Taiwan, sponsored by the Tunghai University, from July 17–25, 1988.

The committee has determined that participation by Ms. Lewis in the program in Taichung, Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Floyd Fithian, a member of the staff of Senator SIMON, to participate in a program in Taipei, Taiwan, sponsored by the Soochow University, from July 15–23.

The committee has determined that participation by Mr. Fithian in the program in Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Pamala Plummer, a member of the staff of Senator WARNER, to participate in a program in Taipei, Taiwan, sponsored by the Soochow University, from July 15–24, 1988.

The committee has determined that participation by Ms. Plummer in the program in Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Taylor Bowlden, a member of the staff of Senator SYMMS, to participate in a program in Taipei, Taiwan, sponsored by the Soochow University, from July 15–24, 1988.

The committee has determined that participation by Mr. Bowlden in the program in Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Bill Jarrell and Ms. Angela Plott, members of the staff of Senator SYMMS, to participate in a program in

Chile, sponsored by the Adolfo Ibanez Foundation, from July 16-23, 1988.

The committee has determined that participation by Mr. Jarrell and Ms. Plott in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Jennifer Hillman, a member of the staff of Senator STANFORD, to participate in a program in Taiwan, sponsored by Tamkang University, from July 15-26, 1988.

The committee has determined that participation by Ms. Hillman in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Rena Coughlin, a member of the staff of Senator GRAHAM, to participate in a program in Taipei, Taiwan, sponsored by Tamking University, from July 15-24, 1988.

The committee has determined that participation by Ms. Coughlin in the program in Taipei, Taiwan, at the expense of Tamking University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Ann Harkins, a member of the staff of Senator LEAHY, to participate in a program in Taipei, Taiwan, sponsored by the Tunghai University, from July 16-26, 1988.

The committee has determined that participation by Ms. Harkins in the program in Taipei, Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Kirk Robertson, a member of the staff of Senator PRYOR, to participate in a program in Chile sponsored by the Adolfo Ibanez Institute, from July 16-23, 1988.

The committee has determined that participation by Mr. Robertson in the program in Chile, at the expense of the Adolfo Ibanez Institute, is in the interest of the Senate and the United States.

THE GREAT LAKES COASTAL BARRIER ACT OF 1987

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of the Great Lakes Coastal Barrier Act, S. 1955.

Shoreline protection is of great concern in all Great Lake States including my State, New York. At present time approximately 90 percent of our shoreline wetlands have been lost. It is time we took decisive action to protect our delicate, vulnerable shorelines.

This legislation will prohibit most expenditures of Federal funds promoting development along the shorelines of the Great Lakes. In New York, this includes approximately 5,100 acres of land. Discouraging development in these areas will achieve many beneficial goals such as helping to prevent damage to shoreline barriers which provide critical spawning, nesting, and feeding areas for fish, waterfowl, and other wildlife.

In addition to the preservation of wildlife and environment, this bill will also mean savings for our taxpayers. By disallowing Federal funding of development projects in coastal barrier areas, there will be a minimization of national flood insurance programs that have cost U.S. taxpayers millions of dollars. Preventing development in areas where the water level is high will disallow the need to provide relief for problems resulting from flooding.

It is time to prevent the further erosion of the Great Lakes shoreline. The Great Lakes Coastal Barrier Act is the most efficient way to protect our wildlife and environment while at the same time saving taxpayers money. The success of this legislation will assure future generations the preservation of the Great Lakes which so many of us have enjoyed.

I urge my colleagues to consider carefully the merits of this legislation and to work for its swift passage.●

DEFENSE PROCUREMENT

● Mr. SIMON. Mr. President, our colleague, the distinguished senior Senator from Illinois [Senator DIXON] won adoption of a measure in the Defense Authorization Act intended to assure that defense procurement practices help rather than hinder efforts to improve defense industry readiness.

As we all know, defense procurement too often is a hodge-podge process—with little consideration given to the effects such actions have on strenthening our industrial base. Our military strength is more than just a matter of how much hardware we have on Pentagon shelves. Beyond that, we must be able to depend upon the capacity of U.S. industrial suppliers, small and large, and their abilities to respond to our defense needs in time of national emergency.

A recent article written by Dennis Melamed, Keith Hammonds, and Zachery Schiller for Business Week, published July 18, 1988, examined this issue in some detail. I commend it to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

[From Business Week, July 18, 1988]

THE PENTAGON IS TAKING ITS SHOPPING LIST OVERSEAS

On station in the Persian Gulf a year ago, the U.S.S. Kidd, a guided missile destroyer, developed a problem in one of its mooring systems. Replacement parts were located by Baldt Inc. of Chester Pa., the Navy's prime mooring-chain supplier for the past 50 years. In 48 hours the Kidd was back protecting U.S.-flag shipping.

Baldt is the sole remaining U.S. supplier of chain for anchors, and its future might seem secure—except for one thing. Pressed by the Pentagon to cut its budget and by State Dept. officials to improve relations with U.S. allies, the Navy is looking abroad for suppliers. "There's not enough business to sustain multiple manufacturers," complains Baldt President James E. Palmer. Navy work accounts for 75% of his 87-year-old company's $10 million annual sales, and without it, he says, "this company would not survive." Adds James S. Walsh, president of Wyman Gordon Co., a Worcester (Mass.) maker of castings and forgings: Washington "ought to protect its defense base . . . not open it to foreign competition."

A LOT OF CRAP

The Pentagon disagrees, and there's little evidence that its foreign-purchase strategy is making the U.S. more vulnerable militarily. But that's small comfort to hundreds of small makers of weapons components. "I'll bet you there's a lot of crap in [Pentagon] warehouses, because they're buying on price overseas," says Anthony D. Waitekus, president of $14 million Overton Gear & Tool Corp. in Addion, Ill. Waitekus is especially upset with General Electric Co., which until last year bought from Overton a substantial number of the gears it uses to make turret and transmission drives for the M-1 tank and Bradley armored personnel carrier. GE has moved half its Bradley gear orders to a Belgian supplier. It won't say why.

There's no doubt that such switches hurt contractors. Some $9 billion of the Pentagon's $149 billion procurement budget went to foreign weapons makers in 1986, double the amount in 1981. And because the Pentagon usually counts only prime contract awards, not subcontracts, its foreign orders are "significantly understated," says a Commerce Dept. official. The Pentagon doesn't disagree, but feels it isn't worth the effort to collect exact numbers.

That makes it hard for small contractors to quantify the damage. For instance, manufacturers of injection-molding machines that are used to make plastic components for submarines, jet engines, and radar sights want protection from Japanese imports. But "we really aren't sure of the scope of our problem because of how our products are used," says one molding-machinery maker. One company makes a plastic part, sends it to a second who makes three, and ships them to a third who assembles them for a prime contractor. "There is no good way to trace this chain," says the executive.

FAVORITISM?

At least not until very late in the game. Industry officials estimate that 50% to 80% of all multilayer ceramic packages in U.S. defense systems now come from Japan. Admittedly, the total market for the most advanced packages is only about $30 million a year. But the chips are essential for radar, communications, and navigational systems, and there's not much incentive for U.S. producers "to stay in the business with that kind of foreign penetration," says Robert J. Sisolak, vice-president of General Ceramics Inc., of Anaheim, Calif. Only four U.S. companies still make multilayer ceramic packages.

The situation is similar in ball bearings. The International Trade Commission figures that, in dollars, imports now account for about a third of U.S. ball-bearing consumption. The industry guesses their unit share may be double that. Because most ball bearings go into civilian products, producers can't prove a military threat. But "as imports increase, the domestic industry's capacity to invest in the future is decreased," the Anti-Friction Bearing Manufacturers Assn. told the Commerce Dept. last year, asking for protection.

The Pentagon isn't alone in squeezing subcontractors: Prime contractors do it, too. In 1987, for example, Boeing Aerospace Co. contracted to sell up to 14 Airborne Warning & Control Systems (AWACS) to France and Britain. But its contract, potentially worth more than $2 billion, has a hook: Over an unspecified period, Boeing guarantees to buy components from French and British suppliers worth a staggering 130% of the price of the planes. Such so-called offsets appear regularly in foreign weapons sales.

The implications of this for U.S. competitiveness are "undetermined," said the Office of Management & Budget in a review of the Boeing deal. But the courts soon may offer an opinion. On Apr. 8 the National Council for Industrial Defense, a labor-industry coalition, filed suit in Federal District Court in Washington charging that the Pentagon has failed to comply with existing regulations requiring that it buy from U.S. and Canadian sources. The Pentagon, charges the council, has adopted "illegal procurement policies" in its foreign weapons deals. The Pentagon was to reply by July 5.

UNIMPRESSED

Some subcontractors even claim that buying defense components abroad increases the risk of technology loss to the Soviet Union. The Navy, for example, is ordering gears for ships from West Germany's Lohmann & Stolterfoht, which is "also a contractor to the Russian Navy," says Richard B. Norment, executive director of the American Gear Manufacturers Assn.

For the most part, the Defense Dept. is unimpressed. It has proposed to ease the pressure on ball-bearing makers by placing its orders domestically for at least three years. But it won't issue a general order protecting all defense contractors from foreign competition.

"Protectionism is self-defeating" because manufacturers tend to get lazy about improving their technology, says Robert B. Costello, Defense Under Secretary for acquisitions. His boss, Deputy Secretary William H. Taft IV, recently overruled a recommendation by the Joint Logistics Commanders, representing all the services, to protect domestic makers of precision optics for night-vision goggles and optical displays used in fighters such as the F-16. These companies aren't threatened by overseas competition, Taft ruled. Congress isn't so sure. In March both the House Armed Services Committee's Chairman, Les Aspin, and Senator Strom Thurmond asked Taft to review his ruling. One reason: Foreign buys accounted for more than 50% of the Pentagon's precision-optics purchases in 1986.

Whether Congress will do more is uncertain. It is considering legislation requiring the Pentagon to develop a master policy for offshore buying. Tacked on is an order to phase out offset agreements. That isn't enough to satisfy suppliers. Still, says Senator Alan J. Dixon, a proponent of more subcontractor protection: "It's a first step."●

NELSON MANDELA DAY

● Mr. SIMON. Mr. President, July 18, 1988, marked the 70th birthday of Nelson Mandela, the imprisoned leader of the African National Congress. Mr. Mandela has been in a South African prison for 25 years, serving a life term for a controversial treason sentence. Nelson Mandela serves as a symbol of hope and determination to all South Africans who are working for peaceful change. He represents the belief that South Africa will one day realize the full potential of all its people and become a country in which all South Africans can participate fully.

Nelson Mandela is one of many South African political prisoners, and this is a time for us to renew our call for the release of all political prisoners in South Africa. His birthday is a time to remember what he, his family, and countless other South Africans have suffered for the hope of a better South Africa.

To millions of South Africans, Americans, and people all over the world, Nelson Mandela represents the suffering and hope of all who seek positive change and an end to apartheid in South Africa. One day the South African Government will recognize the virtues of ending apartheid. My hope is that it will occur while peaceful change is still possible.●

NUCLEAR WASTE DISPOSAL

● Mr. HECHT. Mr. President, the highly respected international journal, the Economist, recently editorialized on the subject of nuclear waste disposal. The British are currently trying to figure out what to do with low level and intermediate level nuclear waste.

The editorial is very perceptive, and does an intriguing job of analyzing the motivations of the various groups involved in the international debate on nuclear waste management. The British are very seriously considering subseabed disposal, as are many other countries.

The editorial supports a position I took last year in the Senate Energy Committee, and again on the floor of the Senate. The Economist correctly points out that high level radioactive waste "has to be left to cool for 50 years before any long-term disposal can be considered." The need for long-term storage of high level nuclear waste above ground before even considering deep geological disposal in a repository is the point I made in committee, and on the Senate floor, and now the Economist has confirmed that this is clearly the prevailing view in the international scientific community.

The Economist also observes that Great Britain has a thriving and profitable industry engaged in reprocessing nuclear waste produced by other countries, and recycling the waste for fuel. Mr. President, this is a growing international market that the United States could dominate. These are jobs that we could have in America, instead of exporting them overseas. Reprocessing is a way for the United States to build our international competitiveness, to preserve our technological edge.

Instead, the Congress has chosen to send those jobs overseas, to weaken our Nation's ability to build some degree of energy independence, and to surrender technological and industrial superiority, in the nuclear waste management field at least, to other nations.

Mr. President, other countries are going ahead with reprocessing and recylcing nuclear waste. Other countries are going to keep their residual waste above ground where they can keep their eyes on it for about 50 years, before they consider permanent disposal. Other countries are aggressively researching the feasibility of subseabed disposal of nuclear waste. Only the United States, among the world's great powers, is foolishly and blindly moving down the path of deep geological disposal of 10-year-old, unreprocessed nuclear waste.

Sooner or later, for economic and safety reasons, we will get back on track with the rest of the world. In the meantime, we better renew our participation in the international research effort on the subseabed disposal of nuclear waste, so our scientists and engineers do not fall behind their counterparts in other nations.

Mr. President, I ask that the editorial from the June 11, 1988 issue of the Economist be printed at this point in the RECORD.

The editorial follows:

[From the Economist, June 11, 1988]

FACE UP TO NUCLEAR WASTE

BURY IT DEEP BENEATH THE SEA

Britain has made a £400m-a-year business out of reprocessing other countries' spent nuclear fuel and storing their radioactive wastes. It has done this without knowing where it should ultimately put the stuff. The result is a pile of nuclear muck big enough to fill Big Ben 40 times over. There are several ways to get rid of this pile. Each would cost several billion pounds, and all of them are controversial. The choice is hard but cannot be ducked any longer. Britain's decision will be part of an answer to worldwide indecision. The buildup of spent nuclear fuel, of obsolete atomic power stations, of retired nuclear submarines still moored to docks and of other irradiated detritus has led to a game of pass-the-radioactive-parcel, in which the parcel goes to whichever country can be bribed to take it. Until this game is ended, responsibly, the future of nuclear power will be under a cloud.

The immediate British problem—with which the nuclear industry's advisory body, Nirex, is now wrestling—involves low-level and intermediate waste. Highly radioactive waste, the sort that generates heat, has to be left to cool for 50 years before any long-

term disposal can be considered. The choice for the low and intermediate stuff is between two philosophies: putting this waste where it can be easily got at and watched; or putting it as far away as possible, where it is less watchable but less likely to hurt people.

Advocates of keeping the stuff ready-to-hand, perhaps in big bunkers on land, include Greenpeace, an environmentalist lobby. If the waste were put far away, they say, little could be done if it went wrong. Chernobyl showed that things can go dramatically wrong in the nuclear industry, despite (indeed because of) its sophistication. Such uncertainty should not be buried. Those with a deep antipathy to nuclear power want the world to face visible reminders of its costs and unpleasantness. Oddly, though, those who want nearby storage also include pro-nuclear people who ask: what if scientists discovered a better way of packaging the waste? Accessibility would mean that waste could be retrieved, repackaged, redistributed, even re-used.

There are too many snags with accessibility. Anything that makes it easier for people to get at radioactive waste makes it easier for radioactivity to get at people. Small leaks might be fixed, but not a large release—the result of a landslip, or a bombing, or a manmade failure of a manmade container. Leaking bunkers could contaminate the surrounding water and air. And the clinching reason why total isolation should win, and accessibility lose, is that this time there is only one issue: impenetrable containment. It is certain that low-level waste will not heat up or explode. It must be made certain that such waste will stay where it is put. Leaving aside exotic solutions, such as shooting the stuff far into space, the closest thing to that physical certainty is found deep, deep underground.

Under land or sea? Burial deep in the earth offers several layers of protection. In a wise deep-burial scheme, natural geological barriers would be a back-up to manmade containment. In a natural disaster, bad enough to crack a bunker on or near the surface, the bedrock would serve as a radioactive shield above containers damaged deep underground. Burial beneath the sea would give a third layer of protection; seawater and the seabed can absorb radiation.

SEALED FOR A FEW THOUSAND YEARS

Two sorts of undersea-burial have been put to Nirex. British Nuclear Fuels and others want to send waste out from the coast along an underground network of trolleys to an offshore burial site. They say this would combine the advantages of accessibility and of isolation. If anything went wrong, the trolleys would be rolled back to the shore. This is a bad compromise. The benefits of access are marginal; the dangers and the costs inherent in it are not. The BNF scheme calls for a complicated network of tracks, all to be laid in a radiation-proof tunnel. Such a tunnel would be constant hostage to fortune, needing maintenance, prone to settling and cracking-minutely, perhaps, but enough to release radiation.

The right solution will be the simplest, most secure and most irreversable. A small British firm, Consolidated Environmental Technologies, suggests vertical shafts, 50 feet in diameter and half a mile into the seabed. Waste would be dumped down the shafts and sealed there for good. The technique remains unproven but the principle is sound. It looks the best way to get rid of existing waste, and the best chance of ensuring a safe grave for debris still to come.●

EMPLOYMENT FOR VETERANS

● Mr. KERRY. Mr. President, it is a sad fact that here in the richest country in the world, 1 in 8 veterans in America is unemployed. Nearly one-third of the 1 million workers displaced annually are veterans. Vietnam veterans, who constitute the majority of unemployed veterans, are especially hard hit by declining employment in the manufacturing sector.

To address this problem, Senator JOHN HEINZ and I recently introduced S. 2491, the Veterans Services Improvements Act. This legislation takes the steps necessary to improve the current haphazard system which distributes information and provides assistance to unemployed veterans. The bill simplifies the process by which individuals obtain information about services and benefits to displaced veterans, apply for such services and benefits, and initiate administrative appeals for benefits.

The legislation makes one agency, the U.S. Department of Labor, responsible for coordinating all education and training assistance available to veterans. The Secretary of Labor must designate the appropriate office in each State to provide services and benefits to displaced veterans. The Secretary must also provide for centralized administration and coordination of these activities.

It also requires the Department of Labor to enter into memoranda of understanding with the other relevant Federal and State agencies to ensure that veterans receive coordinated services. The bill also established a computerized job bank and job matching program to identify job vacancies with qualified unemployed veterans.

It is a human tragedy that more than 200,000 veterans are permanently displaced from employment. Veterans have a lot to contribute to this country, and we need to give them every opportunity we can. Lets remember that the best bet is to hire a vet. This legislation will help us do that. I urge my colleagues to join us as cosponsors of this legislation.●

ENVIRONMENT AND PUBLIC WORKS COMMITTEE ALLOCATIONS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. BURDICK. Mr. President, I ask that a statement entitled Environment and Public Works Committee, Allocations Pursuant to Section 302(b) of the Congressional Budget and Impoundment Control Act of 1974 be printed at this point in the RECORD.

The statement follows:

ENVIRONMENT AND PUBLIC WORKS COMMITTEE, ALLOCATIONS PURSUANT TO SECTION 302(B) OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

The Committee on Environment and Public Works received the following estimated allocations for fiscal year 1989:

	Millions
Direct spending:	
Budget authority	$15,156
Outlays	1,335
Credit authority	249
Allocations to the subcommittees are as follows:	
Water Resources, Transportation and Infrastructure Subcommittee:	
Budget authority	13,937
Outlays	154
Environmental Protection Subcommittee:	
Budget authority	361
Outlays	352
Nuclear Regulations Subcommittee:	
Budget authority	858
Outlays	829
Credit	249

RACINE AREA VFW BASEBALL TEAM

● Mr. KASTEN. Mr. President, I rise today to offer my best wishes to the Racine Area VFW Baseball Team. This team is made up of young men 15 years old and under from J.I. Case, Washington Park, and St. Catherine's High Schools in Racine—and these youngsters are about to represent Wisconsin in the Continental Amateur Baseball Association World Series in Cedar Rapids, IA.

All these players have worked very hard for the right to play in this World Series. They have built on a winning approach—the principle that working hard and doing your best makes you a winner. And once you become a winner in your heart, winning on the scoreboard can't be far behind.

To the players, to coach Peter Di Gaudio, and to all their families and fans in the Racine area, I wish the best of luck in the World Series. You're already champions as far as we're concerned.●

DOCUMENTATION OF CERTAIN VESSELS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 794, S. 2417.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2417) to authorize a certificate of documentation for certain vessels.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2659

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I send to the desk a substitute amendment.

The PRESIDING OFFICER. The substitute amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 2659.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, and insert the following:

That notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Scotch 'N Water (ex Victorious), United States official number 264090; ERSA, United States official number 229511; Compass Rose III, United States official number 559647; and M/V Polar Ice, United States official number 604676.

SEC. 2. Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and United States Department of Transportation Contract Numbered MA-3915 and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Cyclone (ex Coastal Spartan), United States official number 248959, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 3. Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Ocean Tempest (ex Horseshoe Splice), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2659) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2417) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order Nos. 791, 792, 793, and 795 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN AGENTS REGISTRATION IMPROVEMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 799.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1268) to amend the Foreign Agents Registration Act of 1938 (22 U.S.C.) by removing references to "political propaganda" and substituting "advocacy materials".

The PRESIDING OFFICER. Is there objection to the present consideration of the bill.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Foreign Agents Registration Improvement Act of 1988".

SEC. 2. (a) Section 1(j) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(j)) is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

(b) Section 1(o) of such Act is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

(c)(1) Section 4 of such Act (22 U.S.C. 614(a)) is amended by striking out in the section heading "Propaganda" and inserting in lieu thereof "Advocacy Material".

(2) Section 4(a) of such Act is amended—

(A) by striking out "propaganda" and inserting in lieu thereof "advocacy material"; and

(B) by striking out "and a statement, duly signed by" and all that follows through "transmittal".

(3) Section 4(b) of such Act is amended—

(A) by striking out "propaganda" each time it appears and inserting in lieu thereof "advocacy material";

(B) by striking out "registered under this Act with the Department of Justice, Washington, District of Columbia, as";

(C) by striking out "and address"; and

(D) by striking out "; that, as required by this Act, his registration statement" and all that follows through "as may be appropriate".

(d) Section 4(c) of such Act is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

(e) Section 4(e) of such Act is amended by striking out "propaganda" each of the two places it appears and inserting in lieu thereof "advocacy material".

(f)(1) Section 6(a) of such Act (22 U.S.C. 616(a)) is amended—

(A) by striking out in the first sentence "all statements concerning the distribution of political propaganda furnished" and inserting in lieu thereof "other filings made"; and

(B) by striking out in the second sentence "statements" and inserting in lieu thereof "filings".

(2) Section 6(b) of such Act is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

(3) Section 6(c) of such Act is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

(g) Section 8(a)(2) of such Act (22 U.S.C. 618(a)(2)) is amended by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda".

(h) Section 11 of such Act (22 U.S.C. 621) is amended by striking out "propaganda" and inserting in lieu thereof "advocacy material".

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1268) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 10:30 A.M.

Mr. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow no motions or resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow there be a period for morning business not to extend beyond the hour of 11 o'clock a.m. and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10:30 A.M., TUESDAY, JULY 26, 1988

Mr. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10:30 tomorrow morning.

The motion was agreed to, and, at 6:47 p.m., the Senate adjourned until Tuesday, July 26, 1988, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 1988:

DEPARTMENT OF JUSTICE

RICHARD L. THORNBURGH, OF PENNSYLVANIA, TO BE ATTORNEY GENERAL.

THE JUDICIARY

ROBERT LEON JORDAN, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE ROBERT L. TAYLOR, RETIRED.

UNITED NATIONS

VERNON A. WALTERS, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 43D SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

INTERNATIONAL ATOMIC ENERGY AGENCY

JOSEPH F. SALGADO, OF CALIFORNIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 32D SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

CAROL C. ADELMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE CHARLES W. GREENLEAF, JR., RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

JOSE A. COSTA, JR., OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM EXPIRING OCTOBER 27, 1990, VICE JOSE LUIS RODRIQUEZ, TERM EXPIRED.

THE JUDICIARY

MILDRED M. EDWARDS, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, VICE FRANK E. SCHWELB, ELEVATED.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

ROBERT H. MATTSON, OF OREGON, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1991 (REAPPOINTMENT).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DONALD KAGAN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994, VICE GERTRUDE HIMMELFARB, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR TERMS EXPIRING MAY 10, 1994:

D. ALLAN BROMLEY, OF CONNECTICUT, VICE CHARLES E. HESS, TERM EXPIRED.

DANIEL C. DRUCKER, OF FLORIDA, VICE WILLIAM F. MILLER, TERM EXPIRED.

DEPARTMENT OF DEFENSE

MILTON L. LOHR, OF CALIFORNIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION (NEW POSITION).

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JAMES D. WILLIAMS, [redacted]/1120, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER OF THE U.S. NAVY FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF) WHILE SERVING AS ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 5149(B):

CAPT. WILLIAM L. SCHACHTE, JR., [redacted]/2500 JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY.

WITHDRAWAL

Executive message, transmitting a withdrawal of a nomination from further Senate consideration, received on July 25, 1988:

IN THE NAVY

CAPT. WILLIAM L. SCHACHTE, JR., [redacted]/2500, JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5149(B), TO BE ASSIGNED AS ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 26, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 27

9:00 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.
SD-342

Judiciary
Constitution Subcommittee
Business meeting, to mark up S. 702, S. 797, S. 2000, bills to require the Attorney General to collect data and report annually on crimes motivated by racial, ethnic, or religious prejudice, and H.R. 3146, to allow the advertising in interstate commerce of lotteries, gift enterprises, and similar activities if the activity is legal in the State in which it is conducted.
SD-234

9:30 a.m.
Armed Services
To resume hearings on the defense acquisition process.
SH-216

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
To hold hearings on the nominations of Edward S.G. Dennis, Jr., of Pennsylvania, to be an Assistant Attorney General, and Francis A. Keating II, of Oklahoma, to be an Associate Attorney General.
SD-226

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to consider S. 2283, to require the Secretary of the Treasury to mint and issue five-dollar coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming, S. 2544, to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement, proposed legislation to provide for the enhancement of the value of thrift institution charters by creating incentives to investors to place additional private capital in the Nation's thrift industry, and pending nominations.
SD-538

Foreign Relations
Business meeting, to consider options to enforce the committee subpoena for the Oliver North diaries.
SD-419

Labor and Human Resources
Business meeting, to mark up S. 1885, Act for Better Child Care Services of 1987, S. 2647, Stafford Student Loan Default Prevention and Management Act, S. 10, Emergency Medical Services and Trauma Care Improvement Act, S. 1950, Adolescent Family Life Demonstration Projects Act of 1987, proposed Stewart B. McKinney Homeless Assistance Act Reauthorization, and S. 2477, Medical Testing Improvement Act of 1988.
SD-430

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JULY 28

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings to review the Department of Defense safety program for chemical and biological warfare research.
SD-342

10:00 a.m.
Foreign Relations
To hold closed joint hearings with the Select Committee on Intelligence on U.S. policy options toward South Africa intelligence issues.
SH-219

Judiciary
To hold hearings on the nomination of Harold G. Christensen, of Utah, to be Deputy Attorney General.
SD-226

Select on Intelligence
To hold closed joint hearings with the Committee on Foreign Relations on U.S. policy options toward South Africa intelligence issues.
SH-219

JULY 29

9:30 a.m.
Select on Indian Affairs
Business meeting, to consider pending calendar business; and to resume hearings on S. 187, to provide for the protection of Native American rights for the remains of their dead and sacred artifacts, and for the creation of Native American cultural museums.
SR-385

10:00 a.m.
Environment and Public Works
To hold hearings on proposed legislation to declare portions of the Delaware River in the vicinity of Philadelphia to be non-navigable.
SD-406

Finance
Social Security and Family Policy Subcommittee
To hold hearings on proposed legislation to require the Social Security Administration to provide periodic statements to covered workers regarding Social Security taxes paid and benefit levels that can be expected.
SD-215

AUGUST 2

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2044, to require further review by the Federal Communications Commission (FCC) to ensure thorough deliberation on proposed changes in the method of regulation of interstate basic service rates, and to review FCC price cap proceedings.
SR-253

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on miscellaneous public lands measures, including H.R. 2530, H.R. 2952, H.R. 3559, H.R. 4212, H.R. 4315, S. 1290, S. 2565, and S. 2586.
SD-366

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on U.S. policy toward Indochina.
SD-419

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the thrift industry.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 2272, to authorize funds for fiscal years 1989 and 1990 for the Fish and Wildlife Conservation Act of 1980, S. 2384, to authorize funds for fiscal years 1989 through 1991 for the Atlantic Striped

Bass Conservation Act, and other related measures.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2549, Drunk Driving Prevention Act.
SR-253

AUGUST 3

9:00 a.m.
Rules and Administration
Business meeting, to mark up S. 182, to establish a uniform poll closing time in the continental United States for Presidential elections, S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States, and proposed legislation relating to the procedure by which broadcast tapes of Senate proceedings will be made available to the public.
SR-301

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed Commercial Space Launch Act Amendments, and S. 2395, to revise insurance requirements for persons licensed to provide satellite launch services and to make other changes relating to commercial access to space.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the thrift industry.
SD-538

AUGUST 4

9:00 a.m.
Rules and Administration
To hold hearings on S. 1766, to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.
SR-301

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2352, to provide for the transfer of certain lands in the State of Arizona.
SD-366

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on the nominations of Don E. Newquist, of Texas, and Ronad A. Cass, of Massachusetts, each to be a Member of the United States International Trade Commission, and Salvatore R. Martoche, of New York, to be Assistant Secretary of the Treasury for Enforcement.
SD-215

AUGUST 8

10:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To resume hearings on U.S. policy toward Indochina.
SD-419

AUGUST 10

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business matters.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 2047, to require health warning labels on containers of alcoholic beverages.
SR-253

AUGUST 11

9:00 a.m.
Veterans' Affairs
To hold oversight hearings to review certain veterans health care programs.
SH-216

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the computer network and high performance computing.
SR-253

SEPTEMBER 20

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings to review the U.S. and foreign commercial service.
SR-253